CPMG / KA / BG-GPO/13/2003-2005



# ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

| ಸಂಪುಟ ೧೪೦ | ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಮಾರ್ಚ್ ೩೧ , ೨೦೦೫ (ಚೈತ್ರ ೧೦, ಶಕ ವರ್ಷ ೧೯೨೬) | ಸಂಚಿಕೆ ೧೩ |
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## ಭಾಗ - ೪

## ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

### ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

**ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 230 ಕೇನಿಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 6ನೇ ಡಿಸೆಂಬರ್ 2004**

2004ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 2 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(i)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R.562(E) [Notification F.No.52/15/CAB/2002] ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

**MINISTRY OF COMPANY AFFAIRS**
**NOTIFICATION**
**New Delhi, the 2nd September, 2004**

**G.S.R.562(E):-** In exercise of the powers conferred by sub-section (1) of section 642, read with clause (d) of sub-section (1) of section 209 of the Companies Act, 1956 (1 of 1956), and in supersession of the Cost Accounting Records (Caustic Soda) Rules, 1967, Cost Accounting Records (Soda Ash) Rules, 1976, Cost Accounting Records (Sulphuric Acid) Rules, 1980 and Cost Accounting Records (Chemical Industries) Rules, 1987, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely.

(1) These rules may be called the Cost Accounting Records (Chemical Industry) Rules, 2004.
(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Application.-** These rules shall apply to every company engaged in the production, processing or manufacture of products as specified in the Appendix to these rules.

Provided that these rules shall not apply to a company,-

(a) Wherein, the aggregate value of machinery and plant installed as on the last date of the preceding financial year, does not exceed the limit as specified for a small scale industrial undertaking under the provisions of Industries (Development and Regulation) Act, 1951 (65 of 1951); and
(b) the aggregate value of the turnover made by the company from sale or supply of all its products or activities during the preceding financial year does not exceed ten crores of rupees.

**3. Maintenance of records:-** (1) Every company to which these rules apply shall, in respect of each of its financial year commencing on or after the commencement of these rules, keep proper books of accounts relating to utilisation of materials, labour and other items of cost in so far as they are applicable to any of the products referred to in rule 2. The books of account, so maintained, shall contain, inter-alia,

the particulars specified in the Schedule annexed to these rules and proformae A, B, C and D prescribed in the said Schedule:

Provided that if the said company is manufacturing any other product (s) or is engaged in other activities in addition to product(s) referred to in rule 2, the particulars relating to utilisation of materials, labour and other items of cost in so far as they are applicable to such other products of activities shall not be included in the cost of the products referred to in rule 2.

2) The books of accounts referred to in sub-rule (1) shall be kept on a regular basis in such a manner as to make it possible to calculate per unit cost of production and cost of sales of each product referred to in rule 2 for every financial year from the particulars entered therein. Every such book of account and the proformac prescribed in the said Schedule, shall be completed not later than ninety days from the close of the financial year of the company to which it relates.

3) The statistical and other records shall be maintained in accordance with the provisions of the Schedule annexed to these rules and in line with Cost Accounting Standards issued by the Institute of Cost and Works Accountants of India, in so far as they are applicable, in such a manner as to enable the company to exercise, as far as possible, control over the various operations and costs with a view to achieve optimum economies in utilization of resources. These records shall also provide the necessary data which may be required to be furnished under Cost Audit Report Rules, 2001 as prescribed under section 233B of the Companies Act, 1956 and amended from time to time.

4) It shall be the duty of every person, referred to in sub-section (6) and (7) of section 209 of the Companies Act, 1956 (1 of 1956), to take all reasonable steps to secure compliance by the company with the provisions of sub-rules (1), (2) and (3) of this rule in the same manner as he is liable to maintain accounts required under sub-section (1) of section 209 of the said Act.

**4. Penalty:-** If a company contravenes the provisions of rule 3, the company and every officer thereof who is in default, including the persons referred to in sub-rule (4) of rule 3 shall, be punishable as provided under sub-section (2) of section 642 read with sub-sections (5) and (7) of section 209 of the Companies Act, 1956 (1 of 1956).

**5. Saving:-** (1) The Supersession of the Cost Accounting Records (Caustic Soda) Rules, 1967, Cost Accounting Records (Soda Ash) Rules, 1976, Cost Accounting Records (Sulphuric Acid) Rules, 1980 and Cost Accounting Records (Chemical Industries) Rules, 1987, shall not in any way affect-

(a) any right, obligation or liability acquired, accrued or incurred thereunder;

(b) any penalty, forfeiture or punishment incurred in respect of any contravention committed thereunder;

(c) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and; any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if those rules had not been superseded.

(2) Companies required to maintain records under Cost Accounting Records (Caustic Soda) Rules, 1967, Cost Accounting Records (Soda Ash) Rules, 1976, Cost Accounting Records (Sulphuric Acid) Rules, 1988 and Cost Accounting Records (Chemical Industries) Rules, 1987, shall continue to do the same under the respective rules till the Cost Accounting Records (Chemical Industry) Rules, 2004 become applicable to them.

**APPENDIX**

**(See rule 2)**

**List of products for which the rules shall apply:**

| | | | |
|---|---|---|---|
| 1. | Acetic Acid | 2. | Acetic Anhydride |
| 3. | Acetone | 4. | Aluminium Fluoride |
| 5. | Aniline | 6. | Benzene |
| 7. | Boric Acid | 7. | Boric Acid |
| 8. | Butadiene | 9. | Butanol |
| 10. | Calcium Carbide | 11. | Carbon Black |
| 12. | Caustic Soda | 13. | Chloro Methanes |
| 14. | Diacetone Alcohol | 15. | Diethylene Glycol |
| 16. | 2-Ethyl Hexanol | 17. | Ethylene |
| 18. | Ethylene Dichloride | 19. | Ethylene Glycol |
| 20. | Ethylene Oxide | 21. | Formaldehyde |
| 22. | Isopropanol | 23. | Linear Alkyl Benzene |
| 24. | Maleic Anhydride | 25. | Methanol |
| 26. | Methyl Enthyl Ketone | 27. | Methyl Isobutyl Ketone (MIBK) |
| 28. | Nitrobenzene | 29. | Ortho Nitro Cholro Benzene |

30. Para Nitro Cholro Benzene
31. Penta Erithritol
32. Phenol
33. Polyethylenes viz. LDPE, HDPE, LLDPE
34. Polypropylene
35. Polythylene Glycol
36. Propylene
37. Soda Ash
38. Sodium Tripoly Phosphate
39. Sulphuric Acid
40. Resins (excluding natural resins), Paints, Varnishes and Plastics
41. Synthetic Rubber
42. Titanium Dioxide
43. Toulene
44. Xylenes

**SCHEDULE**
**(See Rule 3)**

**1. MATERIALS**

1) Proper records shall be maintained showing separately all receipts, issues and balances both in quantities and cost of each item of raw material (including all direct charges upto the works) required for the production, processing or manufacturing of products under reference. The basis on which quantities, costs of issue and consumption are calculated, shall be indicated in the cost records and followed consistently. In the case of imported raw materials, proper records shall be maintained showing quantity of imported material, Free On Board value, overseas freight, insurance, customs duty and inland freight charges along with license-wise quantities allowed, actual quantitites imported, actual quantities consumed, quantities in stock and quantities yet to be imported out of total licensed quantities. If both indigenous and imported materials are consumed, the records Showing details of percentage mix of the same, have to be maintained for each item.
2) The proper records shall be maintained separately showing the receipts, issues and balances both in quantities and cost of each item of intermediate, process material and catalyst used in the manufacture of the products under reference. The cost shall include all direct charges upto works. In case of catalyst, proer records shall be maintained for the value and quantity issued in a financial year suitably adjusted for consumption. If the life of the catalyst is more than one financial year, necessary adjustment should be made. If the life of the catalyst is not known, consumption may be assessed on technical basis.
3) Where the company produces these raw materials, intermediates or process materials, separate records showing the cost of production of such items, shall be maintained in proforma 'B' The basis on which quantities and cost of issues and consumption of such materials produced or processed by the company are calculated, shall be indicated in the cost records and followed consistently.
4) The issues, consumption of all raw materials, intermediates, process materials and catalysts shall be identified with the product process-wise.
5) The proper records shall be maintained indicating the quantity as well as value of recoveries in different processes having significant value in relation to cost of material. In case the recoveries are not reused in the process and are sold or disposed of without further processing, the realisation from such sales shall be recorded and adjusted against the process concerned. In case further processing is necessary to make the recoveries usable or saleable, as the case may be, proper records of the cost involved for such further processing shall be maintained. If such processing is done by any outside agency, proper records to show the quantity sent for processing, quantity received back after processing and cost incurred thereon shall be maintained. The net realization, if any, shall be adjusted against the major process relating. to such recoveries. The cost of recoveries shall be determined on equitable and reasonable basis and applied consistently. The records indicating the actual sales realization of recoveries shall also be maintained.
6) The proper records shall be maintained to show the receipts, issues and balances, both in quantities and cost of each item of consumable stores, other process materials not covered by sub-rule (2), small tools and machinery spares, indirect materials etc. The cost shall include all direct charges upto works.
7) The cost of consumable stores, small tools and machinery spares shall be charged to the relevant cost center of department of product process on the basis of actual issues. In the case of consumable stores and small tools, the cost of whcih are insignificant, the company may, if it so desires, maintain such records for the group of such consumable stores and tools.
8) The proper records shall be maintained showing the quanitity and value of wastage, spoilage, rejections and losses of raw materials, intermediates, process materials, consumable stores, small tools and machinery spares, whether in transit, storage, manufacture or at any other

stage. The method followed for adjusting the above losses as well as the income derived from the disposal of rejected and waste materials including spoilage, if any, in determining the cost of product, shall be indicated in the cost records. Any abnormal wastage or spoilage or rejection or losses shall be indicated distinctly and separately along with reasons thereof.

9) The proper records shall also be maintained to indicate the value of raw materials, intermediates and process materials, finished and semi-finished, consumable stores, small tools and machinery spares, which have not moved for more than twelve months.

10) Where any credit under Central Value Added Tax (CENVAT) under the Central Excise Act, 1944 (1 of 1944) or any other benefits of the nature of CENVAT credit, are available on any item of material, the cost of such material shall be shown after adjusting such credit or benefits.

11) if any of the input materials is processed through an outside party, proper records shall be maintained for the quantity sent for processing, quantity received after processing, balance quantity of material, losses and wastage of material during processing, by-products recovered, if any, and the cost involved in processing.

**2. SALARIES AND WAGES**

1) The proper records shall be maintained to show the attendance and earnings of all employees assigned to the cost centres or departments and the work on which they are employed. The records shall also indicate the following separately for each cost centre or department;

(a) Piece rate wages (wherever applicable);

(b) incentive wages, either individually or collectively as production bonus or under any other scheme based on output;

(c) Overtime wages;

(d) earnings of casual or contractual labour;

(e) bonus or gratuity, statutory as well as other;

(f) contribution to superannuating scheme;

(g) any other earnings of the nature specified in (a) to (f) above.

2) The records shall be maintained in such a manner as to enable the company to book these expenses cost centrewise or departmentwise with reference to products under reference and to furnish necessary particulars under this head in Proformae A,B,C and D of Schedule annexed to these rules. Where the employees work in such a manner that it is not possible to identify them with any specific cost centre or department, the employees cost shall be apportioned to the cost centres or departments on equitable and reasonable basis and applied consistently.

3) The idle labour cost shall be separately recorded under classified headings indicating the reasons thereof. The method followed for accounting of idle time payments shall be disclosed in the cost records.

4) Any wages and salaries allocable to capital works, such as, additions to plant and machinery, buildings or other fixed assets shall be accounted for under the relevant capital heads. Similary, payments in the nature of deferred revenue expenditure shall be separately recorded under separate classified headings indicating the reasons therefor. The method followed for accounting of such payments in determining the cost of the product(s) under reference shall be on equitable and reasonable basis and applied consistently. The said method shall be disclosed in the cost records also.

5) The cost of normal retirement benefits payable to employees shall be recorded separately and charged to cost. The method followed for accounting of such costs in determining the cost of the products under reference shall be on equitable and reasonable basis and applied consistently and disclosed separately. Termination benefits which are payable in addition to the normal retirement benefits, such as benefits under voluntary retirement scheme, shall be treated as abnormal and shall not form part of salaries and wages and cost of production.

**3. UTILITIES**

1) The proper records shall be maintained showing the quantity and cost of each major utility such as power, water, steam, effluent treatment, etc., produced and consumed by the different cost centres in such detail as to enable the company to furnish the particulars for each utility separately in proforma 'A' of the Schedule.

2) If a utility is purchased, proper records showing the delivered cost including all direct charges upto the works shall be maintained for the quantity and value of each utility pruchased.

3) Where a utility is produced and Supplied by any other unit of the company, proper records shall be maintained to assess cost and the quantity of the utility so supplied.

4) The cost of utility, if any, supplied to any other unit(s) of the company, shall be calculated on equitable and reasonable basis and applied consistently.

5) The cost of utility allocated/apportioned to the cost centrers and further to the individual products shall be on equitable and reasonable basis and applied consistently.
6) Where direct power is one of the major inputs to electrolyise the raw material used in production or manufacture of any of the product under reference, such direct power shall be included in the cost of such raw material and shown accordingly.
7) The records shall also indicate the measures taken on conservation of energy and its corresponding impact on per unit cost of production.

**SERVICE DEPARTMENT EXPENSES**

The Proper records shall be maintained to indicate expenses incurred in respect of each service department or cost centre like laboratory, welfare, transport etc. These expenses shall be apportioned to other services and production departments on equitable and reasonable basis and applied consistently. Where these services are utilized for other products of the company also, the basis of apportionment of such expenses to products under reference and to the other products shall be on equitable and reasonable basis and applied consistently. The said basis shall be disclosed in the cost records also.

**REPAIRS AND AMAINTENANCE**

1) The proper records showing the expenditure incurred by the workshop, tool room and on repairs and maintenance in the various cost centres or departments shall be maintained under different heads. The records shall also indicate the bais of charging such expenses to different cost centres or departments. Where maintenance work is done by direct workers of any production cost centre or department, the wages and salaries of such workers shall be treated as direct expenses of the respective cost centre or department. If the services are utilized for products other than referred to in rule 2, the manner of charging a share of the cost of workshop, tool room and repairs and maintenance expenses to such products shall be on equitable and reasonable basis and applied consistently.
2) In addition to the above, records shall indicate the amount and also the proportion of closing inventory of stores and spare parts representing items which have not moved for over twenty four months.
3) The expenditure on major repair works from which benefit is likely to accrue for more than one financial year shall be shown separately and absorbed in the cost over the period for which such benefits are expected to accrue on equitable and reasonable basis and applied consistently. Method of accounting along with the basis of allocation of such costs shall also be clearly indicated in cost records.

**6. FIXED ASSETS, DEPRECIATION AND LEASE CHARGES**

1) The proper and adequate records shall be maintained for assets used for production, processing or manufacturing of the products under reference in respect of which depreciation has to be provided for. These records shall, interalia, indiate grouping of assets under each product referred under rule 2, the cost of acquisition of each item of asset including installation charges, date of acquisition and rate of depreciation.
2) Those records which enable to identify and/or allocate gross fixed assets, accumulated depreciation up to the year and net fixed assets under the heads; land and huilding, plant and machinery, furniture and fixtures etc. employed for products under reference shall be maintained. The basis of apportionment of common assets to the products under reference shall be on equitable and reasonable basis and applied consistently. In case of revaluation of assets, the same shall be indicated separately and depreciation on revaluation shall not be included in the cost statement.
3) The basis on which depreciation is calculated and allocated or apportioned to various cost centres or departments and absorbed on all products shall be clearly indicated in the cost records. If depreciation charged or chargeable to the cost centries or departments is in excess or lower than the depreciation calculated by applying the rates of depreciation prescribed under the provisions of sub-section (2) of Section 205 of the Companies Act, 1956, such amount of excess or lower depreciation shall be indicated clearly in the cost records. The cost records shall also show the effect of such excess or lower depreciation, as the case may be, on the per unit cost of each product. The cumulative depreciation charged in the cost records, against any individual item of asset shall not, however, exceed the original cost of the respective asset.
4) The proper records shall be maintained giving details of assets taken or given on lease The break-up of lease rental in terms of financial charges, depreciation etc. paid or received shall be maintained separatley. The details shall be maintained separately for assets taken from or given to related party.

**7. OVERHEADS**

1) The proper records shall be maintained for the various items of indirect expenses comprising overheads pertaining to products under reference. These expenses shall be analyzed, classified and grouped according to functions, namely, works, administration, selling and distribution as per normally accepted cost accounting principles and practices.

2) Where the company is manufacturing products other than the products under reference, the records shall clearly indicate the basis followed for apportionment of the Common overheads including head office expenses of the company to such other products and the products under reference, including capital works. Where certain expenses forming part of overheads can be identified with a particular product, such expenses shall be first segregated and charged to the relevant product in the first instance and there after the residual expenses under the above categories of overheads shall be apportioned on equitable and reasonable basis and applied consistently. The overheads chargeable to capital works shall be indicated separately in the cost records. The basis of apportionment or absorption of overheads to the cost centres or departments and the products shall be indicated in the cost records. The records shall be maintained in such a manner as to indicate the details of works, administration, selling and distribution overheads.

**8. ROYALTY AND TECHNICAL KNOW-HOW FEE**

The adequate records shall be maintained showing royalty and/or technical know-how fee including other recurring or non-recurring payments of similar nature, if any, made for the products under reference to collaborators or technology suppliers in terms of agreements entered into with them. Such records shall be kept separately in respect of each such agreement or arrangement. The basis of charging such amount, including lump sum payment and its treatment shall be indicated in the cost records.

**9. RESEARCH AND DEVELOPMENT EXPENSES**

1) The proper records showing the details of expenses, if any, incurred by the company for the research and development work on the products covered under these rules, according to the nature of development of products i.e. existing or New products and processes, development of process of manufacture-existing and new, design and development of new plant facilities and market research for the existing and new products, shall be maintained separately. The records shall also indicate the payments made to outside parties for the research and development work. The basis of charging such amount, including lump sum payment and its treatment shall be indicated in the cost records.

2) The basis of charging these expenses to the cost of production under reference and to other products shall be indicated in the cost records. Where the utility of research and development work extends to over more than one financial year, such expenses shall be charged to the cost of products under reference and to all other products on equitable and reasonable basis and applied consistently indicating the criteria on the basis of which it has been decided to extend the utility period of these expenses to more than one financial year.

3) The expenses incurred by the research and development department for providing technical know-how to outsiders shall be recorded separately and excluded from the cost of products under reference. The amount recovered for providing technical know-how to outsiders shall also be indicated separately and excluded from the income arising from the sale of products under reference.

**10. QUALITY CONTROL**

The adequate records shall be maintained to indicate the expenses incurred in respect of quality control department or cost centre for products under reference. Where these services are also utilized for other products of the company, the basis of apportionment to products under reference and to other products shall be on equitable and reasonable basis and applied consistently.

**11. ADJUSTMENT OF COST VARIANCES**

Where the company maintains cost records on any basis other than actual such as standard costing, the records shall indicate the procedure followed by the company in working out the cost of the product under such system. The cost variances shall be shown against the separate heads and analyzed into material, labour, overheads and further segregated into quantity, price and efficiency variances. The method followed for adjusting the cost variances in determining the actual cost of the products shall be indicate clearly in the cost records. The reasons for the variances shall be duly explained in the cost records and statements.

**12. WORK-IN-PROGRESS AND FINISHED STOCK**

The method followed for determining the cost of work-in-progress and finished stock of the products under reference shall be appropriate and shall be indicated in the cost records so as

to reveal the cost element that have been taken into account in such computation. All conversion costs incurred in bringing the inventories to their present location and condition shall be taken into account while computing the cost of work-in-progress and finished stock. The method adopted for determining the cost of work-in-progress and finished goods shall be followed consistently.

**13. CAPTIVE CONSUMPTION**

If the products under reference are used for captive consumption, proper records shall be maintained showing the quantity and cost of each such product transferred to other departments or work centres or units of the company for self-consumption and sold to outside parties separately. The rates at which the transfers are effected shall be at cost of production as per normally accepted cost accounting principles and practices of working out such cost of production.

**14. BY-PRODUCTS**

Proper Records shall be maintained for each item of by-product, if any, produced showing the receipt, issues and balances, both in quantity and value. The basis adopted for valuation of by-product for giving credit to the respective process shall be equitable and consistent and should be indicated in cost records. Records showing the expenses incurred on further processing, if any, as well as actual sales realization of by-product shall be maintained.

**15. JOINT PRODUCTS**

Where more than one product which is of equal economic importance arises from a process, the cost up to the point of separation of products shall be apportioned to joint products on reasonable and equitable basis and shall be applied consistently. The basis on which such joint costs are apportioned to different products arising from the process shall be indicated in the cost records.

**16. PACKING EXPENSES**

The proper records shall be maintained separately for domestic and export packing showing the quantity and cost of various packing materials and other expenses incurred on primary and/or secondary packing. Where such expenses are incurred in common for other products also, the basis of apportioning the expenses between the relevant products shall be on equitable and reasonable basis and applied consistently.

**17. INTEREST AND OTHER BORROWING COSTS**

1) The proper records shall be maintained for money borrowed for each project and/or working capital and interest charged thereon. The amount of interest and other borrowing costs shall be allocated or apportioned to the products under reference and other products or activities on equitable and reasonable basis and applied consistently. The basis of further charging of the share of interest to the various types of such products shall also be equitable and reasonable and applied consistently. The basis of such allocation or apportionment shall be spelt out clearly in the cost records or statements.

2) Net interest and other borrowing costs incurred for project under execution shall be capitalized for the period up to the date the project is ready to commence commercial activities. However, capitalization of borrowing costs should be suspended during extended periods in which active development is interrupted.

**18. EXPENSES OF INCENTIVES OF EXPORTS**

1) The proper records showing the expenses incurred on the export sales, if any, of the products under reference shall be separately maintained so that the cost of export sales can be determined correctly. Separate cost statements shall be prepared for products exported giving details of export expenses incurred or incentive earned.

2) The proper records shall be maintained giving the details of export commitments license wise and the fulfillment of these commitments giving the reasons for non-compliance, if any. In case, duty free imports are made, the cost statements should reflect this fact. If the duty free imports have been made after actual production, the Statement should reflect this fact also.

**19. COST STATEMENTS**

1. The cost statement showing details of installed capacity, production, wastage, issues and sales and all elements of cost of the current financial year and previous year shall be prepared for each process adopted in the production of products under reference in proformae A, B, C and D
2. The product emerging from a process, which forms raw material or an input material for a subsequent process, shall be valued at the cost of production up to the previous stage.
3. If the company is operating more than one plant or factory, separate cost statements as specified above shall be prepared in respect of each plant or factory.

**20. RECONCILIATION OF COST AND FINANCIAL ACCOUNTS**

1) The cost statements shall be reconciled with the financial statements for the financial year specifically indicating the expenses or incomes not considered in the cost records or statements so as to ensure accuracy and to adjust the profit of the products under reference with the overall profit of the company. The variations, if any, shall be clearly indicated and explanied.

2) A Statement showing the total expenses incurred and income received by the company under different heads of accounts and the share applicable to other products of activities and the products under reference shall be prepared and reconciled with the financial statement.

**21. PRODUCTION AND SALES RECORDS**

Quantitative records of all finished goods whether packed or unpacked, showing production, issues for sales and balances of different type of the product packs under reference, shall be maintained. The quantitative details of production shall be maintained separately for self manufactured, third party on job work, loan license basis etc., Separate details of sales shall be maintained for domestic sales at contorl price, domestic sales at market price, export sales under advance license, export sales under other obligations, export sales at market price, and sales to related party/inter unit transfer.

**22. POLLUTION CONTROL**

Expenditure incurred by the company on various measures to protect the environment like effluent treatment, control of pollution of air, water, etc., should be properly recorded.

**23. HUMAN RESOURCES DEVELOPMENT**

Expenditure incurred by the company on the human resources development such as training of staff, workshop and seminars, health and safety education activities, shall be recorded separately.

**24. STATISTICAL RECORDS**

1) The records regarding available machine hours or direct labour hours in different production departments and actually utilized shall be maintained for production of products under reference and shortfall suitably analyzed. Suitable records for computation of idle time of machines and/or labour shall also be maintained and analyzed.

2) The proper records shall be maintained to enable the company to identify the capital employed, net fixed assets and working capital separately for the production of products under reference and other products or activities to the extent such elements are separately identificable. Non-identificable items shall be allocated on a suitable and reasonable basis to different products and activities. Fresh investments on fixed assets for production of products under reference that have not contributed to the production during the relevant period/year shall be indicated in the cost records. The records shall, in addition, show assets added as replacement and those added for increasing existing capacity.

3) Whenever WTO provisions are attracted, proper records shall be maintained to identify the competitiveness of the products under reference in the domestic as well as global market. Adequate statistical records shall also be maintained to identify the market share of the products manufactured and the likely impact thereon on account of competitive goods imported in to the country.

4) In case of new major projects for product or activity referred to under rule 2, proper records shall be maintained indicating the funds raised from different sources, their utilization, stage-wise cost incurred and progress of the project as per the project report. Cost and time over run shall also be analysed with reference to the cost of services or activity and its impact on the profitability of the company.

**25. RECORDS OF PHYSICAL VERIFICATION**

Records of physical verification may be maintained in respect of all items held in the stock such as raw-materials, process materials, packing materials, consumables stores machinery spares, chemicals, fuels, finished goods and fixed assets. Reasons for shortages/ surplus arising out of such verifications and the method followed for adjusting the same in the cost of the products shall be indicated in the records.

**26. RELATED PARTY TRANSACTIONS**

1) In respect of related party transactions or supplies made or services rendered by a company to a company termed "related party relationship" as defined below and vice-a-versa, records shall be maintained showing contracts entered into, agreements or understanding reached in respect of-

a) Purchase and sale of raw materials, finished products, process materials and rejected goods including scraps, etc;

b) utilisation of plant facilities and technical know-how;
c) supply of utilities and any other services;
d) administrative, technical, managerial or any other consultancy services;
e) purchase and sale of capital goods including plant and machinery; and
f) any other payment related to production, processing or manufacturing of products under reference.
2) These records shall also indicate the basis followed for arriving at the rates charged or paid for such products or services so as to enable determination of the reasonableness of such rates in so far as they are in any way related to product under reference.
3) The transactions by the following "related party relationships" shall be covered under sub-rule (1).
(a) enterprises that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the reporting enterprise (this includes holding companies, subsidiaries and fellow subsidiaries);
(b) associates and joint ventures of the reporting enterprise and the investing party or venturer in respect of which the reporting enterprise is an associate or a joint venture;
(c) individuals owning, directly or indirectly, an interest in the voting power of the reporting enterprise that given them control or significant influence over the enterprise, and relatives of any such individual;
(d) key management personnel and relatives of such personnel; and
(e) enterprises over which any person described in (c) or (d) is able to exercise significant influence. This includes enterprises owned by directors or major shareholders of the reporting enterprise and enterprises that have a member of key management in common with the reporting enterprise.
(4) However, the following shall not be deemed as "related party relationships"
(a) two companies simply because they have a Director in common, notwithstanding paragraph (d) or (e) above (unless the Director is able to affect the policies of both companies in their mutual dealings);
(b) a single customer, supplier, franchiser, distributor, or general agent with whom an enterprise transacts a significant volume of busines merely by virtue of the resulting economic dependence; and
(c) the parties listed below, in the course of their normal dealings with an enterprise by virtue only of those dealings (although they may circumscribe the freedom of action of the enterprise or participate in its decision-making process)-
(i) providers of finance;
(ii) trade unions;
(iii) public utilities;
(iv) Government departments and government agencies including government sponsored bodies.

**Explanation:-** For the purpose of these rules,-
(a) "related party relationships" means parties who are considered to be related if at any time during the reporting period one party has the ability to control the other party or exercise significant influence over the other party in making financial and/or operating decisions;
(b) "related party transaction" means a transfer of resources or obligations between related parties, whether or not a price is charged;
(c) "control" means
(i) ownership, directly or indirectly, of more than one-half of the voting power of an enterprise; or
(ii) control of the composition of the Board of Directors in the case of a company or of the composition of the corresponding governing body in case of any other enterprise; or
(iii) a substantial interest in voting power and the power to direct, by stature or agreement, the financial and/or operating policies of the enterprise;
(d) "significant influence" means participation in the financial or operating policy decisions of an enterprise, but not control of those policies;
(e) "an Associate" means an enterprise in which an investing reporting party has significant influence and which is neither a subsidiary nor a joint venture of that party;
(f) "a joint venture" means a contractual arrangement whereby two or more parties undertake an economic product, which is subject to joint control;
(g) "joint control" means the contractually agreed sharing of power to govern the financial and operating policies of an economic product so as to obtain benefits from it;
(h) "key management personnel" means those persons who have the authority and responsibility for planning, directing and controlling the activities of the reporting enterprise;

(i) "relative" in relation to an individual, means the spouse, son daughter, brouther, sister, father and mother who may connected by blood relationship;

(j) "holding company" means a holding company within the meaning of Section 4 of the Companies Act, 1956 (1 of 1956);

(k) "subsidiary" means a subsidiary company within the meaning of Section 4 of the Companies Act, 1956 (1 of 1956);

(l) "fellow subsidiary" means a company is said to be a fellow subsidiary of another company if both are subsidiaries of the same holding company

(M) "state-controlled enterprise" means an enterprise which is under the control of the Central Government or a State Government.

**PROFORMA 'A'**

Name of the company:

Name and address of the factory/unit:

Statement showing the cost of Utilities like Power, Steam, Water, etc., produced and consumed and effluent treatment during the year/period:

**A. Quantitative information:**

| Serial Number | Particulars | Current Year (unit) | Previous Year (unit) |
|---|---|---|---|
| 1. | Installed capacity | | |
| 2. | Quantity produced | | |
| 3. | Capacity utilization | | |
| 4. | Quantity re-circulated | | |
| 5. | Quantity purchased, if any | | |
| 6. | Self-consumption including losses (to be specified) | | |
| 7. | Net units available | | |

**B. Cost Information:**

| Serial Number | Particulars | Quantity | Rate per unit (Rupees) | Amount (Rupees) | Cost per Unit (Rupees) | |
|---|---|---|---|---|---|---|
| | | | | | Current Year | Previous Year |
| 1. | Materials (specify)<br>(a)<br>(b)<br>(c) | | | | | |
| 2. | Process materials/ Chomicals | | | | | |
| 3. | Direct wages and salaries | | | | | |
| 4. | Utilities (Specify)<br>(a)<br>(b)<br>(c) | | | | | |
| 5. | Other direct expenses, if any | | | | | |
| 6. | Consumable stores and spares | | | | | |
| 7. | Repairs and maintenance | | | | | |
| 8. | Depreciation | | | | | |
| 9. | Lease rent, if any | | | | | |
| 10. | Other works overhead | | | | | |
| 11. | Sub-total (1 to 10) | | | | | |
| 12. | Less: Credit, if any | | | | | |
| 13. | Total cost (11-12) | | | | | |
| B. | Apportioned to cost centre or product:<br>1.<br>2.<br>3.<br>4.<br>n. | | | | | |

Signature

Name and designation of the Officer-in-charge of maintaining cost records of the company.

**Notes:**

1. Separate cost sheet is to be prepared for each major utility having significant impact on cost, whenever such utility is functionally independent and not forming part of composite unit.
2. If any of the utilities, which are manufactured by the company, is sold to outside parties, the cost of sales and sales realisation shall be worked out in detail as illustrated in Proforma 'C' relating to cost of sales.
3. The proforma may be suitably modified to cover the specific features in such a way that serial numbers are maintained as per proforma with addition of items numbering them by prefixing/ suffixing alpha characters to the serial numbers.
4. Delete items not applicable.

**Proforma 'B'**

Name of the company:
Name and address of the factory/Unit;
Name of the Process material/Intermediate/Product under reference:
Statement showing the cost of production for the year/period:

**A. Quantitative Information:**

| Serial number | Particulars | (unit: MTs) | |
|---|---|---|---|
| | | Current Year | Previous Year |
| 1. | (i) Installed capacity<br>(ii) Capacity enhanced during the year by leasing arrangement etc. | | |
| 2. | Actual production:<br>(i) Self manufactured<br>(ii) third parties on job work, if any<br>(iii) loan license, if any | | |
| 3. | Capacity utilization | | |
| 4. | Quantity used for captive consumption | | |
| 5. | Quantity transferred for:<br>(a) domestic sale<br>(b) export sale<br>(c) others (specify) | | |
| 6. | Opening stock (finished goods) | | |
| 7. | Closing stock (finished goods) (6+2-4-5) | | |

**B. Cost Information:**

| Serial Number | Particulars | Quantity | Rate per unit (Rupees) | Amount (Rupees) | Cost per MT | |
|---|---|---|---|---|---|---|
| | | | | | Current Year (Rupees) | Previous Year (Rupees) |
| 1. | Material Cost:<br>(itemwise covering 80% of value)<br>(a)<br>(b)<br>(c)<br>.........<br>Sub total | | | | | |
| 2. | Process materials/ chemicals (Specify) | | | | | |
| 3. | Direct wages and salaries | | | | | |
| 4. | Utilities<br>(a) Power<br>(b) Steam<br>(c) Others (specify)<br>Sub total | | | | | |
| 5. | Consumable stores and spares | | | | | |
| 6. | Depreciation | | | | | |
| 7. | Lease rent, if any | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 8. | Repairs and maintenance:<br>(a) Building<br>(b) Plant and Machinery<br>(c) Others, if any | | | | | |
| 9. | Other works overhead | | | | | |
| 10. | Total works overheads<br>(4 to 9) | | | | | |
| 11. | Royalty, if any | | | | | |
| 12. | Technical assistance/ know-how fee | | | | | |
| 13. | Research and development | | | | | |
| 14. | Quality control | | | | | |
| 15. | Administrative overhead (relating to production activities)<br>(a) salaries and wages<br>(b) others (specify)<br>(c) Sub total (a+b) | | | | | |
| 16. | Total (1+2+3+10 to 15 | | | | | |
| 17. | Adjustment for variances (where standard costing system is followed) | | | | | |
| 18. | Add: Opening stock<br>Less: Closing stock<br>(Wrok-in-progress) | | | | | |
| 19. | Less: Credits (from wastage and by products)/ Recoveries, if any | | | | | |
| 20. | Packing cost (primary packing)<br>(a) materials<br>(b) Others<br>(c) Sub total | | | | | |
| 21. | Total cost of production (16 to 20) | | | | | |
| 22. | Finished goods purchased, if any | | | | | |
| 23. | Add: Opening stock<br>Less: Closing stock<br>(Finished products) | | | | | |
| 24. | Total (21+22+23) | | | | | |
| 25. | Quantity and cost transferred for<br>(i) captive consumption, if any<br>(ii) sales to Proforma 'C'<br>(iii) others, if any | | | | | |

Signature

Name and designation of the Officer-in-charge of maintaining cost records of the company.

**Notes:**

1. Separate proforma shall be prepared for each type of process material/intermediate/final product under reference produced.
2. Separate proforma shall be prepared for the quantity produced for sale within the country and the quantity produced for export sale. Expenses incurred on export and the incentive earned thereon shall be indicated in the proforma applicable for the quantity produced for export.
3. Separate proforma shall be prepared for any related party/inter-unit tranfer of intermediate/finished product(s) under reference. Separate proforma shall also be prepared for proudction on self manufactured, third party on job work and loan license basis, as may be applicable, of intermediate/ finished product(s) under reference.
4. The administrative overheads shall be included in the cost of production only to the extent they

contribute in putting the goods produced to their present location and condition. The balance of administrative overheads, if any, shall be included in the cost of goods sold.

5. The proforma may be suitably modified to cover the specific features in such a way that serial numbers are maintained as per proforma with addition of items numbering them by preixing/suffixing alpha characters to the serial number.
6. Delete items not applicable.

**Proforma 'C'**

Name of the company:
Name and address of the factory/ unit:
Name of the process material/ intermediate/ product under reference:
Statement showing the cost of sales, sales realisation and margin for the year/period for:

**A. Quantitative Information:**

| Serial Number | Particulars | Unit: MTS | |
|---|---|---|---|
| | | Current Year | Previous Year |
| 1. | Quantity transferred from Proforma 'B' | | |
| 2. | Opening Stock (finished goods) | | |
| 3. | Closing Stock (finished goods) | | |

**B. Cost Information:**

| Serial Number | Particulars | Quantity unit | Rate per unit (Rupees) | Amount (Rupees) | Cost per MT | |
|---|---|---|---|---|---|---|
| | | | | | Current Year(Rs.) | Previous Year (Rs.) |
| 1. | Quantity and cost transferred from Proforma 'B' | | | | | |
| 2. | Packing cost secondary<br>(a) Materials<br>(b) Others<br>(c) Sub total | | | | | |
| 3. | Other expenses:<br>(a) Administrative overheads (others)<br>(b) Others (specify) | | | | | |
| 4. | Selling and distribution expenses:<br>(a) Salaries and wages<br>(b) Freight and transport charges<br>(c) Commission to selling agents<br>(d) Advertisement expenses<br>(e) Royalty on sales, if any<br>(f) Others<br>(g) Sub total (a to f) | | | | | |
| 5. | Interest and other borrowing costs:<br>(a) for manufacturing activity<br>(b) Others<br>(c) total | | | | | |
| 6. | Total cost of sales (excluding excise duty) of packed quantity sold (1 to 5) | | | | | |
| 7. | Sales realisation<br>Less: Excise duty and other statutory levies | | | | | |
| 8. | Net sales realization | | | | | |
| 9. | Margin (8-6) | | | | | |
| 10. | Add: export benefits and incentives, if any | | | | | |
| 11. | Total margin (9+10)<br>(including export benefits) | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 12. | Ex-factory price (excluding sales tax etc.) | | | | | |
| 13. | Maximum retail price (excluding sales tax etc) | | | | | |
| 14. | Maximum retail price, if any, prescribed by the Government or statutory or regulatory body etc. | | | | | |

Signature
Name and designation of the Officer-in-charge of maintaining cost records of the company.

**Notes:**

1. Separate proforma shall be prepared in respeet of each process material/intermediate/final product under reference produced and sold.
2. Separate proforma shall be prepared for quantity sold within the country and the quantity exported. Expenses incurred on export and the incentive earned thereon shall be indicated in the proforma applicable for the quantity produced for exported
3. Separate proforma shall be prepared for any related party/inter-unit transfer of intermediate/finished product(s) under reference. Separate proforma shall also be prepared for production on self manufactured, third party on job work and loan license basis, as may be applicable, of intermediate/ finished product(s) under reference.
4. The administrative overheads shall be included in the cost of production only to the extent they contribute in putting the goods produced to their present location and condition. The balance of administrative overheads, if any, shall be included in the cost of goods sold.
5. The proforma may be suitably modified to cover the specific features in such a way that serial numbers are maintained as per proforma with addition of items numbering them by prefixing/suffixing alpha characters to the serial number.
6. Delete items not applicable.

**Proforma 'D'**

Name of the Company:

Statement showing the allocation or apportionment of total expenses and income of the company between the products referred to under rule 2 and other products or activities for the period/year:

| Serial Number | Particulars | Total expenses as per audited financial accounts | Share applicable to products covered under rule 2 (Product 1, Product 2, etc) | Share applicable to other products or activities | Basis of allocati on |
|---|---|---|---|---|---|
| 1. | Raw material | | | | |
| 2. | Process materials/chemicals | | | | |
| 3. | Direct wages and salaries | | | | |
| 4. | Utilities | | | | |
| 5. | Consumable stores and spares | | | | |
| 6. | Depreciation | | | | |
| 7. | Lease rent | | | | |
| 8. | Repairs and maintenance | | | | |
| 9. | Other works overheads | | | | |
| 10. | Total works overheads (4 to 9) | | | | |
| 11. | Royalty, if any | | | | |
| 12. | Technical assistance know-how fee | | | | |
| 13. | Research and development | | | | |
| 14. | Quality control | | | | |
| 15. | Administrative overhead (relating to production):<br>(a) salaries and wages<br>(b) others (specify)<br>(c) sub total (a+b) | | | | |

| | | | | | |
|---|---|---|---|---|---|
| 16. | Total (1+2+3+10 to 15) | | | | |
| 17. | Stock adjustment (Work-in-progress) | | | | |
| 18. | Less: Credits (from wastages and by-products)/ Recoveries, if any | | | | |
| 19. | Cost of production (16 to 18) | | | | |
| 20. | Stock adjustment (finished products) | | | | |
| 21. | Net cost of production of unpacked finished goods (19+20) | | | | |
| 22. | Less: captive consumption | | | | |
| 23. | Net cost of materials available for sales (21-22) | | | | |
| 24. | Packing expense | | | | |
| 25. | Other expenses:<br>(a) Administrative overheads (others)<br>(b) Others (specify) | | | | |
| 26. | Selling and distribution expenses:<br>(a) Salaries and wages<br>(b) Freight and Transport charges<br>(c) Commission to selling agents<br>(d) Advertisement expenses<br>(e) Royalty on sales, if any<br>(f) Others<br>(g) Total (a to f) | | | | |
| 27. | Interest and other borrowing costs | | | | |
| 28. | Total cost of sales excluding excise duty (23 to 27) | | | | |
| 29. | Total sales realization excluding excise duty | | | | |
| 30. | Margin (29-28) | | | | |
| 31. | Add; Export benefits and incentives, if any | | | | |
| 32. | Total Margin (30+31) | | | | |
| 33. | Any other expense not included in cost | | | | |
| 34. | Any other income not considered in cost | | | | |
| 35. | Margin as per Financial Accounts | | | | |

Signature

Name and designation of the Officer-in-charge of maintaining cost records of the company.

**Notes:**

1. Product 1, Product 2, etc. indicated above are illustrative only.
2. All items of income and expenditure in this proforma shall be reconciled with the financial accounts for the relevant period.
3. The administrative overheads shall be included in the cost of production only to the extent they contribute in putting the goods produced to their present location and condition. The balance of administrative overheads, if any, shall be included in the cost of goods sold.

4. The proforma may be suitably modified to cover the specific features in such a way thay serial numbers are maintained as per proforma with addition of items numbering them by prefixing/ suffixing aplha characters to the serial numbers.
5. Delete items not applicable.

[F.No. 52/15/CAB-2002]

**A. K. KAPOOR,** Adviser (Cost)

**Note :-** 1. Cost Accounting Records (Caustic Soda) Rules, 1967, were published vide G.S.R. 1261, dated the 11th August, 1967 and subsequently amended vide-

(i) GSR 85 dated 4th January, 1968;
(ii) GSR 773, dated 3rd June, 1977;
(iii) GSR 17, dated 5th January, 1983;
(iv) GSR 540, dated 22nd July, 1989;
(v) GSR 300 (E), dated 24th March, 1993;
(vi) GSR 327 (E), dated 3rd June, 1998;
(vii) GSR 427 (E), dated 3rd August, 1998;
(viii) GSR 711 (E), dated 28th September, 2001.

2. Cost Accounting Records (Soda Ash) Rules, 1976, were published vide S.O. 1720, dated the 29th May, 1976 and subsequently amended vide-

(i) GSR 790 dated 3rd June 1977
(ii) GSR 36, dated 5th January, 1983;
(iii) GSR 559, dated 22nd July, 1989;
(iv) GSR 319(E), dated 24th March, 1993;
(v) GSR 443(E), dated 3rd August, 1998;
(vi) GSR 725(E), dated 28th September, 2001

3. Cost Accounting Records (Sulphuric Acid) Rules, 1980, were published vide G.S.R. 395(E), dated the 4th July, 1980 and subsequently amended vide-

(i) GSR 41 dated 5th January, 1983;
(ii) GSR 564, dated 22nd July, 1989;
(iii) GSR 324(E), dated 24th March, 1993;
(iv) GSR 448(E), dated 3rd August, 1998;
(v) GSR 730 (E), dated 28th September, 2001.

4. Cost Accounting Records (Chemical Industries) Rules, 1987, were published vide G.S.R. 596, dated the 8th August, 1987 and subsequently amended vide-

(i) GSR 732, dated 4th August, 1988;
(ii) GSR 570, dated 22nd July, 1989;
(iii) GSR 34(E), dated 3rd January, 1992;
(iv) GSR 330(E), dated 24th March, 1993;
(vi) GSR 454(E), dated 3rd August, 1998;
(vii) GSR 278 E), dated 24th April, 2001;
(viii) GSR 735 (E), dated 28th September, 2001.

ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

**ಕೆ. ನೀಲಕಂಠಾಚಾರ್**

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ, ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ),

ಪಿ.ಆರ್. 224 ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

**ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 233 ಕೇನಿಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 7ನೇ ಡಿಸೆಂಬರ್ 2004**

2004ನೇ ಸಾಲಿನ ಆಗಸ್ಟ್ 31 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(i)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O.971(E) [Notification F.No.SEB1/LE/19048/2004] ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

**SECURITIES AND EXCHANGE BOARD OF INDIA**
**NOTIFICATION**
**Mumbai, the 31st August, 2004**

**S.O.971(E):-** The Mangalore Stock Exchange (hereinafter referred to as "MGSE") is a company limited by guarantee and was granted recognition as a stock exchange under section 4 of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "SC(R)A") on September 09, 1985. The renewal of recognition of MGSE has been granted since then from time to time and the last recognition of MGSE was valid up to September 08, 2003.

2. The Securities and Exchange Board of India (hereinafter referred to as ''SEBI') conducted an inspection of MGSF between August 21-24, 2002 and the findings of the inspection were communicated to MGSE. Thereafter, in the interest of trade and also in the public interest, SEBI, by virtue of the powers conferred upon it by section 4 of the SC (R)A, granted renewal of recognition to MGSE for one year, commencing on the 9th day of September 2002 and ending on the 8th day of September 2003, subject to the condition that all the suggestions made in Part 1 of the report on inspection of MGSE, conducted during August 2002, be complied with, by MGSE, within 2 months from the date of notification of the renewal.

3. Subsequently, an inspection of MGSE was conducted from August 6-9, 2003, in order to determine whether the exchange should be granted further renewal of recognition, after expiry of the renewal granted till September 08, 2003. During the course of the said inspection, the status of compliance of the suggestions made in the previous inspection report were specifically looked into and it was observed that MGSE had implemented only 5 suggestions completely, while the following 13 suggestions had not been implemented;

i) Setting up of the Settlement Guarantee Fund, as advised by SEBI Circular dated 09.06.1997.

ii) Filling up the post of Executive Director immediately, by a suitable competent person with professional qualification in the area of finance, adequate post qualification experience in the financial sector of Capital market with a proven track record.

iii) Drawing up a list of approved securities which are liquid, which are to be considered towards Base Minimum Capital (BMC) deposited by the members and not accepting infrequently traded scrip/below par scrips.

iv) Ensuring that the member brokers make good their shortfall in BMC within a reasonable period; immediately suspending members failing to comply with this requirement.

v) Transferring 50% of the interest earned on 1% Security Deposit to Investor Protection Fund. (IPF)

vi) Prescribing contribution to IPF from members, based on their turnover, as per GOI Directives dated 22.08.1985.

vii) Not to stop collecting under any circumstances, the contributions from the members towards IPF, as the members trade through ICSEIL (ISE) and to continue to transfer 2% of the listing fees collected to IPF.

viii) Taking steps to immediately modify the existing software/procuring new software to cater to the requirement of the present settlement cycle system of T+3.

ix) Taking necessary steps to amend its bye-laws with regard to Arbitration, on the lines of the new Arbitration Act.

x) Amending its articles/bye-laws to provide for treating the claims of investors at par with those of member brokers, as per SEBI directives. Fixing a proper time frame for processing and settlement of Claims.

xi) Taking immediate appropriate steps to ensure that the composition of the Council of Management and other statutory committees are in the prescribed ratio of 50:50 and 60:40 respectively.

xii) Expenditing the compilation of the database in respect of the remaining members within a specific time frame.

xiii) Ensuring that the sub brokers affiliated to the member brokers of the Exchange enter into the revised agreement as prescribed by SEBI vide letter dated May 23, 1997. Collecting the arrears of registration fees from the sub brokers concerned, at the earliest and remitting the same to SEBI.

4. Apart from the non compliance with the suggestions made in the Part I of the report on inspection of the MGSE' conducted during August 2002, on which the renewal of recognition of the Exchange was conditional, certain major irregularities were also observed by the inspection team in the functioning of the exchange viz non-compliance with the stated investment policy/norms of the exchange, use of temporary employees as authorized signatories for signing cheques, drain of the exchange's resources and inadequate provisioning of software for T+3/T+2 trading system etc., which can have serious ramifications of the functioning of an exchange. This non compliance of suggestions on which the renewal of recognition was conditional and deficiencies/flaws in the management of the affairs of the Exchange is in violation of the provisions of SC(R)A, the Securities Contracts (Regulation) Rules, 1957 (hereinafter referred to as the 'SC(R)R'), the SEBI Act, 1992 hereinafter referred to as 'the Act') the Rules and Regulations made there under, the circulars/directives issued by SEBI and the Rules, Regulations and Bye laws of MGSE.

5. Hence, SEBI issued a notice dated September 8, 2003, under Section 4(4) of SC(R)A, to the Governing Board of MGSE, calling upon them to show cause as to why the request for renewal

of recognition of MGSE should not be refused. SEBI advised them to reply to the notice within 15 days from the receipt of the same. They were also advised that in case they failed to reply to the said show cause notice, SEBI would be constrained to presume that the Governing Board has nothing to say in the matter and SEBI would be free to take such action as it considered appropriate under the provision of the Section 4(4) of SC(R)A and other applicable provisions.

6. In response to the said show cause notice, the Governing Board made its submissions vide its letter dated September 20, 2003 and requested for a personal representation to SEBI in this regard. SEBI advised the Governing Board to appear on October 7, 2003 for a personal hearing before me, along with supporting documents, if any. On the said date, Dr T. Mallikarjunappa, Public Representative Director, Shri Ashish Parikh, Member Director and Ms Namitha W. Pais, Chief Manager appeared before me and made their submissions. Thereafter, additional submissions were made by the Governing Board vide letter date October 13, 2003.

7. A gist of the violations alleged against the Governing Board and its submissions, made vide their letters dated September 20, 2003 and October 13, 2003 and during the hearing held on October, 7, 2003, before me, is summarized below:

**Inspection 2002-Status of compliance**

7.1 **Delay in the setting up of the Settlement Guarantee Fund (SGF):-** The Governing Board submitted that the SGF had not been set up as there was no trading on the floor of the Exchange since 2000-01. As a promoter exchange of Interconnected Stokc Exchange of India Ltd (hereinafter referred so as ISE) MGSE had contributed Rs. 10 lace to be SGF of ISE. it was further stated that MGSE had now set up its SGF with a corpus of Rs. 2 lakhs, as resolved in the Board resolution passed in the meeting held on September 20, 2003 and that there was also a Brokers Protection Fund formed earlier for a similar purpose. It was submitted that steps were being taken to close the said fund and transfer the proceeds therein to the SGF.

7.2 **Failure to appoint the Executive Director:-** While MGSE did not have an Executive Director since December 2000, Ms Pais was appointed as the Executive Director of the MGSE, without SEBI's approval. SEBI directed Ms. Pais to immediately relinquish the office of Executive Director. Moreover, when her name was subsequently recommended by the exchange for the said post, SEBI rejected here candidature vide letter dated September 20, 2002, as she did not possess the requisite experience in the capital market/securities market. However, MGSE appointed Ms Pais as Chief Manager of MGSE and assigned duties and powers to her which were such as could be exercised and discharged only by an Executive Director of an Exchange.

In response to the said Charges, the Governing Board submitted that as per the directive of SEBI, sincere attempts had been made to appoint an Executive Director from amongst the applicants, while also keeping in view the financial impact on the Exchange, the declining trading activity and the crunch in the financial avenues of the exchange. Defending their appointment of Ms. Pais, it was submitted that among all the applicants, she was found to be suitable by the Selection Committee for appointment as Executive Director. Since SEBI turned down the said appointment, a fresh attempt was made for selecting the Executive Director of MGSE. While seven candidates responded to the advertisement, only four candidates turned up for the interview and out of these, the names of the three candidates, which included the name of Ms Pais, were forwarded to SEBI vide letter dated June 02, 2003 along with the report of the Selection Committee dated May 31, 2003. It was submitted that as Ms. Pais was one of the candidates who had turned up for the interview, an opportunity was granted to her on par with other candidates, and hence here selection should not be construed as having granted her any preference.

7.3 **List of infrequently traded/ below par scrips contributed towards Base Minimum Capital (BMC):-** With reference to the said charge, it was submitted that the Exchange had drawn up a list of approved securities which were liquid and consisted of scrips which formed part of BSE Sensex/ S&P Nifty/BSE 100/CNX Nifty Junior/BSE 200/CNX Midcap 200 and the same shall be considered towards BMC deposited by the members.

7.4 **Shortfall of BMC:-** With reference to the same, it was submitted that in view of the fact that the average daily turnover of MGSE was less than Rs. 1 crore since April 1999, the exchange had reduced the BMC to Rs. 1 lakh as per the SEBI circular June 18, 2003. It was further submitted that as there had been an incidental shortfall of BMC prior to June 2003, appropriate penalties were being considered for levy against such members whose BMC had fallen short of the requirements. MGSE has submitted that at present, all the members were maintaining the requisite BMC.

7.5 **Failure to transfer 50% of the interest earned on 1% Security Deposit to the Investor Protection Fund:-** It was submitted that the Government Board, at its meeting held on 23.08.2003, had passed a resolution to transfer 50% of the interest earned on 1% security deposit to the IPF and presently the amount to the credit of IPF is Rs. 16,35,994.

7.6 **Failure to prescribe contribution to IPF from members based on their turnover:-** It was submitted that the Board, at its meeting held on September 20, 2003, had passed a resolution prescribing contribution to IPF from members based on their turnover. It was submitted by MGSE that at present the members are contributing Rs. 500/- towards IPF, which was higher than the amount that would have been collected if the contribution was linked to turnover. Hence there was no violation in respect of the contribution to IPF.

7.7 **Failure to collect contribution from members towards IPF and transfer 2% of the listing fee collected to IPF:-** It was submitted that notice of the same had been taken and this requirement has been complied with.

7.8 **Failure to modify the existing software to meet T+3 Settlement cycle system:-** It was submitted that given the facts that the stock exchange had no trading in the last four years, the members of MGSE were trading only through ISE, and the substantial expenditure expected to be incurred on the modification of existing software or procurement of new software to meet with the T+3 Settlement requirement, the proposal to modify the software had been postponed. However, steps were now being taken to update the trading software to meet the said requirement by November 15, 2003.

7.9 **Byelaws relating to aribitration:-** As regards the amendement of the byelaws relating to arbitration, it was stated that necessary steps had been taken to amend its Byelaws on the lines of the new Arbitration Act.

7.10 **Amendment of Article/Byelaw for treatment of claims of investors at par with those of member brokers as per SEBI directive:-** It was stated that the required changes had been effected for the said purpose, through a resolution passed at the Board Meeting held on November 04, 2002.

7.11 **Failure to maintain the composition of the Council of Management and the Statutory Committees in the prescribed ration of 50:50 and 60:40 respectively:-** With reference to the same, it was initially submitted that necessary resolutions would be moved in the AGM to be held on September 30, 2003 to comply with the requirements and that the composition of the present Board was 6 elected directors and 5 public representatives, including one SEBI nominee while that of the Statutory Committees was in the prescribed ratio of 60:40 Subsequently, it was stated that since there were only five public representatives instead of the sanctioned strength of six, only one broker director had been elected to the Board at the AGM held on October 07, 2003, as against the vacancies of two broker directors, who had retired by rotation. Therefore, as per the submissions made by the Exchange, the ratio of 50:50 on the Council of Management is maintained.

7.12 **Compilation of the database:-** It was submitted that the database in respect of 42 out of 69 members was prepared and it was now proposed to approach the reamaining members in order to complete the compilation of the entire database by December 31, 2003.

7.13 **Termination of sub-brokership:-** It was stated that the sub-brokers had been directed to pay the arrears of registration fees to SEBI, failing which steps would be initiated to cancel their certificates of registration. If was subsequently submitted that there is only one case of sub broker pending, whose fees is outstanding at the Exchange.

### Inspection 2003

7.14 **Non-compliance of investment policy/norms of the Exchange:-** The Exchange had invested more than 60% of its funds in a single private mutual fund namely, JM Mutual Fund, the act being in discord with the then prevalent investment policy/norms of MGSE. This investment was done without prior approval of the Governing Board, which ratified the said decision subsequently. The minutes of the meeting did not reflect either the deliberations on the need for shifting the funds from scheduled commercial banks to the private mutual fund or the relevant details such as the period for which such investment would be deployed, quantum of return on the investments etc or any work sheets based on which such decision was taken.

MGSE has submitted that the said decision was taken to counter the falling listing revenues and negligible transaction fees of the Exchange. The Exchange also submitted that with the recent fall in interest rates, the stream of interest income was being seriously undermined. It was state that the Governing Board, at its meeting held on august 23, 2003, had taken a decision to transfer Rs. 18 lakhs from J.M. Mutual Fund to RBI Relief Bonds and had also decided to withdraw Rs. 20 lakhs, which were held in Fixed Deposits inprivate sector banks, and invest the matured amount in RBI Relief Bonds. Thereafter, the Governing Board, at its meeting held on September 20, 2003, passed a resolution to reduce the exposure to a single mutal fund. The Exchange has submitted during the personal hearing that the minutes on the issue of investment in J. M. Mutual Fund were not fully recorded and hence, did not include the discussions on the said subject.

**7.15 Temporary employees authorized to sign cheques:-** The Governing Board had conferred the power to sign cheques, on behalf of the Exchange, to three temporary staff members, contrary to the directive issued by SEBI vide circular dated December 20, 2001, to the effect that only authorised executives of the Exchange should be authorized to sign cheques upto such amount as may be decided by the Board and for amounts above the specified limits, the office bearers of the Exchange, including the Executive Director, should be authorized to sign the cheques. With reference to the same, it was stated that consequent to the VRS offered by the Governing Board in February 2002, the Exchange did not have any permanent employees, although steps had been initiated by it to appoint an Executive Director. Hence, in the interim period, employees employed on a contract basis were operating the bank accounts on behalf of MGSE, though only for routine expenditure and on a temporary basis. The Exchange submitted that this too would be stopped after the appointment of the Executive Director. It was submitted that in the matter of operation of bank accounts, necessary checks and balances existed and no lapses had been committed untilsnow. Furthermore, the Governing Board, at its meeting held on September 20, 2003, had passed a resolution to take a fidelity insurance policy to cover any exigencies.

**7.16 Drain of Exchange's Resources:-** It was observed that the members and elected directors, with specific reference to Shri Ivan Eugene Lobo, were using the infrastructure of the Exchange such as server, computer systems, software etc as well as its staff, for their day to day trading activities. Further, exclusive terminals were provided to Shri Lobo to log on to ISE Securities and Services Ltd. (hereinafter referred to as 'ISS) through the server of MGSE, at a subsidized rate, whereby the cost incurred by MGSE was in excess of the charges collected by it for providing this service, thereby resulting in a resource drain from the Exchange, for the benefit of a few members.

In response to this charge, the Governing Board Submitted that the members incurred their own cost of network connectivity from their office to the exchange and each such member was also charged Rs. 1,250/- per month for each of the terminals connected to the Exchange and the said amount was being collected from all members at Mangalore who were connected to the Exchange. It was also submitted that the said facility was available to all members, without exception. Furthermore, since Mangalore experienced frequent dislocation of connectivity due to poor infrastructure, the Exchange had a system to provide a back-up facility to all WAN members in case of a contingency, if requested for. Hence, the facility to square off the transactions of the members from the Exchange, incase of a break down in connectivity between their office and the Exchange, was a contingency pool arrangement available to all their members. No extra or special facilities had been extended to Shri Lobo. On the day of the Inspection, the back up facility had been extended to him only upon his request, as his terminal had lost connectivity. It was also stated that transaction fees were collected from all members trading though ISS, based on their turnover i.e. Rs. 3 per every lakh and in slabs thereof.

**7.17 Indirect refund of non refundable one time payment of deposits paid by the members for registration in ISE:-** It was observed that fifty two members had paid a one time entry fee for participating in trading through ISE. Subsequently, some of the members who had not taken up trading in ISE, had requested for refund of the said sum. However, the Governing Board, in its meeting held on September 22, 2001, decided not to refund the same as it was a one time entry fee for obtaining trading rights on ISE. However, subsequently, the Governing Board provided PCs worth Rs. 30,000/- to all those members who had submitted the one time entry fee to obtain trading rights at ISE. This appears to be an act meant to circumtences the earlier dicision of non refund of the amount. The Governing Board stated that the computers were provided solely to facilitate trading on the national grid of the ISE, as the computers that were earlier supplied to the members, when trading on the MGSE was automated in 1996, were inadequate and obsolete. MGSE further submitted that these Pentium III computers supplied to the members was never intended to be the property of the member but would always remain the property fo the exchange.

**7.18 Use of unauthorized software:-** It was also observed that the configuration of the PCs provided by MGSE allowed the members to get connected to other members of the exchange who were trading in ISE, by using the provisions of CTCL/SBS (Secondary Broadcasting Station). In such cases, an approved terminal of a member could be accessed by any other person by means of software, at a low cost. Further, it was observed that such persons were functioning as a sub-terminal or as a sub-broker without complying with the formalities of registration with SEBI or seeking prior approval from MGSE, thereby contravening the provisions of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992.

In reply to the same, the Governing Board stated that the authorized sub-brokers of ISS, who are also members of 'MGSE', used only the authorized version of ODIN software and there was no other unauthorized software in use at 'MGSE'.

7.19 **Contravention of SEBI (Stock Brokers and Sub brokers) Regulations 1992:-** It was observed that some non members of MGSE like Shri Rama Pujari and Shri Prakash regularly logged on to ISS through MGSE. Upon verification, it was revealed that the said two entities were acting as sub brokers of one of the prominent elected directors, Shri Lobo, himself a sub-broker of ISS. Thus, it appears that Shri Lobo had permitted his clients, Shri Pujari and Shri Prakash to act as sub brokers. Thus, an elected director was found to be not only utilizing the infra-structure of the MGSE for his own purpose but was also providing it to a few non-members, thereby violating the provisions of the SEBI (Stock Brokers and Sub brokers) Regulations, 1992, according to which a sub-broker is not permitted to engage any other person/s as his sub-broker or permit his clients to act as sub-brokers, as was being done here. Thus, MGSE infrastructure was being used to log on to ISE by a non member, which was illegal and unauthorized.

In reply to the same, it was contended that ISE had allowed its sub brokers to have as many trading terminals as required, after seeking its prior permission. In the said case, Shri Lobo had taken the permission and authorization from ISE to have four terminals, each to be operated by authorized persons and thus Shri Pujari and Shri. Prakash had been authorized to operate two of his terminals.

8. In addition to the above, it was also submitted by MGSE that although there was no trading on the floor of MGSE, a number of services were being offered to and availed of, by the local investors and hence, the proposed action under section 4(4) of the SC(R)A be dropped and the recognition of the exchange be renewed.

9. I have taken into consideration the facts and circumstances of the case and the material available on record, which includes the show cause notice, replies and the documents submitted by the Governing Board as well as the submissions made before me, during the personal hearing.

10. I find that there is substantial non-compliance by MGSE with respect to the various suggestions contained in Part I of the report, for the inspection carried out in the year 2002, on which the renewal of recognition of MGSE was conditional. MGSE has failed to comply with 13 of the 18 suggestions made in the report. The details of the status of compliance vis-a-vis the suggestions made in the report are as under:

**THE STATUS OF IMPLEMENTATION OF SUGGESTIONS MADE IN THE PREVIOUS INSPECTION REPORT**

| S.No. | Suggestions made in the Inspection Report of 2002 | Status |
|---|---|---|
| 1) | The Exchange should ensure that arrears of SEBI registration fees is collected in full from those members who have resigned from membership, before Security Deposit/Capital Adequacy Deposit is refunded to them. | Implemented |
| 2) | The Exchange should immediately evaluate the BMCs of all the members and wherever FDRs are required to be renewed, the same should be renewed, the short fall in BMC should immediately be made good. | Implemented |
| 3) | The Exchange should ensure that arbitration awards are properly and fully implemented and in the manner prescribed in SEBI Circular SMD/Policy/CIR-06/2002 dated 27.3.2002 | Implemented |
| 4) | The Exchange should initiate appropriate disciplinary action against members failing to submit the auditors report within the due dates/extended due date. | Implemented |
| 5) | The exchange should take steps to double the BMC from Rs. 2.00 lacs to Rs. 4.00 lakhs in terms of SEBI Circular SMD/SED/RCG/270/96 dated 19.1.96 | Need not be pursued |
| 6) | The Exchange should expedite the compilation of the database in respect of the remaining members within a specific time frame. | Being implemented |
| 7) | The Exchange should immediately fill up the post of Executive Director by a suitable competent person with professional qualification in the area of finance, adequate post qualification experience in the financial sector and Capital market with a proven track record. | Being implemented |
| 8) | The Exchange should take necessary steps to amend its bye-laws with regard to Arbitration on the lines of the new Arbitration Act. | Being implemented |

| | | |
|---|---|---|
| 9) | The Exchange should amend its articles/bye-laws to provide for treating the claims of investors at par with those of member brokers as per SEBI directives. Proper time frame should be fixed for processing and settlement of claims and the same should be strictly complied with. | Being implemented |
| 10) | The exchange should ensure that the sub brokers affiliated to the member brokers of the Exchange enter into the revised agreement as prescribed by SEBI vide letter dated may 23, 1997. The arrears of registration fees from the sub brokers concerned should be collected at the arliest and remitted to SEBI. | Not implemented |
| 11) | The Exchange should expedite setting up of Settlement Guarantee Fund, as advised by SEBI Circular dated 09.06.1997. | Not implemented in time. |
| 12) | The exchange should draw up a list of approved securities which are liquid and the same may alone be considered towards BMC deposited by the members. Infrequently traded scrips/below par scrips should not be accepted. | Not implemented |
| 13) | Exchange has to ensure that the member brokers made good their shortfall in BMC within a reasonable period. Members failing to comply with this requirement shall be suspended immediately. | Not implemented in time. |
| 14) | The Exchange should transfer 50% of the interest earned on 1% Security Deposit to Investor Protection Fund. | Not implemented in time. |
| 15) | The Exchange should prescribe contribution to IPF from members, based on their turnover as per GoI Directives dated 22.08.1985 | Not implemented |
| 16) | The Exchange should not under any circumstances stop collecting the contributions from the members towards IPF as the members trade through ICSEIL and should continue to transfer 2% of the listing fees collected to IPF. | Not implemented |
| 17) | The Exchange should take immediate appropriate steps to ensure that the composition of the Council of Management and other statutory Composition are in the prescribed ration of 50:50 and 60:40 respectively. | Not implemented in time. |
| 18) | The Exchange should immediately take steps to modify the existing software/ procure new software to cater to the requirement of the present settlement cycle system of T+3 | Not implemented |

11. The pertinent point to mention here is that these suggestions had been stipulated as conditions to be complied with, by MGSE, within two months from the date of grant of renewal of recognition. However, in case of most of the suggestions made in Part I of inspection report of year 2002, the Exchange has taken action or proposed to take action by passing Board resolution, only after the show cause notice dated September 08, 2003 was issued to the Exchange. I have examined the reasons assigned for the said non compliances/ delayed compliances and find them inadequate to explain why thse conditions have not been complied within the time frame specified by SEBI, at the time of granting renewal of recognition. The Exchange appears to have been negligent and casual in its approach towards the implementation of these suggestions. Even if the delay in implementation of the suggestions was to be condoned, I find that the current inspection has revealed several other serious irregularities in the conduct of the affairs of MGSE, some of which are in breach of even the basic requirements of law and ethics, as expected of a Governing Board of an Exchange.

**INVESTMENT POLICY**

12. In this context, I have noted the fact that during the course of Inspection in 2002, MGSE was found to have invested about 90% of its total funds, amounting to Rs. 1.06 crores, in scheduled commercial banks like Vysya bank, Karnataka Bank and Global Trust Bank and the balace 10% was deployed in a mutual fund i.e. JM High Liquidity Fund.

13. However, the Governing Board, in its meeting held on May 31, 2003, ratified the decision to invest an amount of Rs. 37.50 lakhs in JM Income Fund and Rs. 15 lakhs in JM High Liquidity Fund and while doing so, it also modified its earlier investment policy (recorded in the minutes of the meeting held on November 04, 2002) or investing 60% of its funds in AAA rated Income Funds, liquid funds, RBI Relief Bonds and Govt. Securities and 40% of its funds in the nationalized banks/ Scheduled Banks.

14. Thus, more than 60% of the funds of MGSE, were invested in a private mutual fund, without the prior approval of the Governing Board and in contravention of its then existing investment policies. I think it is pertinent to note that the said investment was ratified only after the investment was made and the investment norms were later amended to ratify such a

depolyment. I think it is also pertinent to state that there is no record of any discussions on the justification of deployment of such huge funds in one particular mutual fund, on the safety of the funds so deployed, or the analysis of the strength of the said mutual fund etc, being preliminary scrutinies which any prudent management council would have undertaken, for the safety and security of their funds. There is not even any mention in the minutes about the period for which such investment was to be deployed in the fund, quantum of retum on the investments etc or any work sheets based on which such decision was taken. Seen in this context, any subsequent justification made by the Governing Board seems inadequate to counter the lack of adherence to any prudent norm while investing more than 60% of the exchange's funds in one particular fund, while completely disregarding the requirement of taking a well considered decision before deployment of its funds. It is also evident that MGSE did not follow its own norm of staggering the deployment of funds across various categories of investments and also failed to record any reasons/ justifications for ignoring the same. Thus, even if the 'merits' of deployement of funds in the mutual funds are to be accepted, the fact remains that a major portion of the funds of a public institution, involving the interest of the general public, were deployed in a single mutual fund, without even a preliminary due diligence process or any diversification among various similar such funds. Hence, the act of MGSE in not following any prudent investment norms in such a major decision deserves to be severely condemned.

**APPOINTMENT OF EXECUTIVE DIRECTOR**

15. I have noted that in the earlier inspection report, it had been pointed out that MGSE had appointed an Executive Director without complying with the stipulated directives/Rules and procedures required to be followed in the matter and also without the prior approval of SEBI. Since no prior approval was sought from SEBI for appointment of Executive Director, the incumbent so appointed was directed to relinquish the office immediately, vide our letter dated August 26, 2002 and the Exchange was directed that steps should be taken afresh for the appointment of a new Executive Director. I find that the Exchange has subsequently forwarded the name of the same incumbent for the post of Executive Director, for SEBI's approval. The Exchange was informed vide letter dated September 20, 2002 that the incumbent did not satisfy the minimum requirements with respect to an Executive Director of a stock exchange, in terms of experience in Capital Markets/ Securities Market etc and was directed to call for fresh names for the post of Executive Director.

16. However, I am distressed to note that although the incumbent resigned from the post, she was re-appointed immediately as a "Chief Manager" and such duties and powers were assigned to her which could be exercised and discharged only by an Executive Director of an Exchange. Thus, by re-appointing the same person as Chief Manager and conferring on her the same powers and duties as that of an Executive Director, despite the fact that the appointment of the said person had earlier been rejected by SEBI on the grounds of not meeting the requirements of an Executive Director in terms of qualification and experience, MGSE has not only deliberately ignored and circumvented the directions of SEBI in this matter but also exercised favour and bias for a particular candidate. I have also taken note that apart from this, her name, along with that of two other candidates, has once again been sent to seek the approval of SEBI in the matter of appointment to the same post for which she was once rejected by SEBI. I also note that the Exchange had mentioned in its submission that the declining trading activity and crunch in financial avenues were impediments in appointment of a suitable Executive Director. However, not once has the Exchange informed SEBI about the existence of such financial constraints in appointment of Executive Director and it is surprising to note that the Exchange has started facing such financial constraints after the issuance of showcase notice by SEBI.

**INDIRECT REFUND OF NON REFUNDABLE ONE TIME PAYMENT OF DEPOSITS PAID BY THE MEMBERS FOR REGISTRATION IN ISE**

17. I have noted from the records that in the year 1997-98, after a series of meetings, the Governing Board had, in its meeting held on April 22, 1998, resolved to collect a sum of Rs. 30,000/- as one time non refundable fees (that was subsequently increased to Rs. 35,000/- and to Rs. 40,000/- at various stages) from those members who had opted to join the ISE, for obtaining trading rights from ISE. I have noted that 52 members were said to have paid a sum of Rs. 30,000/- each, 2 members were said to have paid a sum of Rs. 35,000/- each, and 1 member a sum of Rs. 40,000/- totaling in all to Rs. 16.70 lakhs. Subsequently, although some of these members, who did not join ISE, are said to have requested for refund of the said sum, the Governing Board in their meeting held on September 22, 2001, decided not to refund the said sum as the amount was treated as a one time entry fee for participating to trade through ISE. Even in the subsequent meetings, the Governing Board reiterated that such a sum could not be refunded. However, in the meeting of January 28, 2002, one of the sitting elected directors, Shri

N. M. Shenoy, requested the Governing Board to consider throwing open trading on ISE/ISS to all members without insisting on the initial payment of Rs. 30,000/- given their "improved financial position" and the need to "improve the volume of trading" by the members, through the newly formed subsidiary of ISE. Subsequently, in the meeting held on March 02, 2002, the said director once again proposed that it would be necessary to provide all members of MGSE with a PC to enhance their capacities at a cost of Rs. 30,000/- each and agreeing to the suggestion, PCs were provided by MGSE to its members.

18. Even though this decision of the Governing Board, read in isolation, would appear as a normal and development oriented decision, when the same is linked to the earlier series of discussions regarding the refund of non refundable portion of Rs. 30,000/- paid by the members, it can be inferred that the decision to provide each PC at the cost of Rs. 30,000/- was only an act to circumvent the prohibitive decision taken earlier by the Governing Board, of not refunding the amount. Thus, the Governing Board has, by providing the members with PCs, effectively refunded the amount of Rs. 30,000. This is further established by the fact that on comparison of the list of members who had paid the said Rs. 30,000 (which is about 52), and the list of members who had received the PCs (which is around 40), the latter list contains only the names of those members who had earlier paid the said sum to the Exchange. The Exchange has, in the process, incurred a total cost of Rs. 8 lakhs to benefit a select group of members only. I find that providing of personal computers to some select members, who did not trade in the Exchange for the last three years, allegedly for the purpose of enhancing their capacities and that too, at a time where financial condition of the Exchange was not sound and had also ceased to record any trades for more than three years, defies any logic. Furthermore, I have noted that there has been no increase in the members getting registered as sub brokers to trade through ISS so far, thereby raising doubts about the need to give PCs to members who were allegedly not trading either on MGSE or ISE.

**UTILISATION OF THE INFRA-STRUCTURE AND STAFF OF THE EXCHANGE BY THE ELECTED DIRECTORS FOR THEIR DAILY TRADING ACTIVITIES IN ISS**

19. I have noted from the records that some of the members of MGSE, based at Mangalore and trading through ISE/ISS were provided a unique facility, such that the infrastructure of the Exchange viz, server, computer systems, software etc was being utilised by these members for accessing and trading in ISE/ISS by logging on to the servers and terminals of the Exchange which were in turn connected to the servers of ISE/ISS. It is noted that two terminals were provided exclusively for these members to log on to ISS, through the server of the Exchange and in addition to this, two terminals were provided exclusively for executing trades in ISS by the said members. The arrangement was such that two members would log on to ISS through VSAT and the rest would log on through dial up mode. For members using the dial up mode, the Exchange had also provided few ISDN lines for the members, VSAT connection etc at its own cost.

20. An exclusive terminal was found to have been provided to one of the directors, Shri Lobo, for logging on to ISS and the other terminal was being used by the remaining members. Similarly, as exclusive ISDN line had been provided to one of the other directors, Shri Norbert Morris Shenoy, trading in the name of M/s Arunanjali Securities. The entire fixed cost of providing the VSAT, ISDN lines, servers, exclusive terminals was borne by the Exchange and there was no express provision or arrangement with the ISE or ISS for that matter, for the Exchange to provide such facilities to its members. In addition to this, the Exchange also had to bear the recurring cost of providing such facilities, e.g. telephone charges, electricity charges, charges towards maintenance of the servers, terminals etc. I have noted from the inspection report that till recently, the Exchange was not collecting any charges from the members. The exchange has recently started collecting very nominal charges which is allegedly far lower than the cost that was actually being incurred by the exchange. Thus, as arrangement existed, whereby enormous subsidy was offered to some members causing a drain on the resources of the Exchange. Of the 8 brokers who accessed the ISS through the Exchange's server, three were found to be present elected directors of the Exchange. It is quite evident that the elected directors not only utilized the infra-structure of the Exchange for their own purpose but that they also provided the same to a few non-members having trading relations with them. It is to be noted that a member of an Exchange who trades through the subsidiary of his Exchange, can only do so as a sub-broker. SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 do not permit a sub-broker to in turn have a sub-broker or permit his clients to act as a sub-broker. Despite the Regulation, the said arrangement was present in the Exchange. There have been instances of elected directors and members indulging in the act of utilizing the servies of the staff of the Exchange on a daily basis, especially the EDP staff, in routing their trade orders through the Exchange

terminal. It was noticed that the EDP staff of the exchange performed the duty of executing orders for the members, especially for Shri Lobo. It is distressing to note that the elected directors were found to misuse their powers and abuse their position in the Exchange and also cause erosion of the resources of the Exchange, for their own commercial needs and benefits.

21. The Governing Board of an exchange is entrusted with the duty of implementation and administration of the Rules and Regulations and directives of SEBI in the Exchange, so as to ensure an orderly development of the capital market. When the persons entrusted with such duties themselves violate the Rules, for their own advantage, it cannot be perceived as a free, fair and just manner of administration.

**EXERCISE OF FINANCIAL POWERS AND EXECUTION OF OTHER IMPORTANT AND SENSITIVE WORK**

22. SEBI has already directed all stock exchanges (including 'MGSE') vide circular SMDRP/Policy/Cir-52/2001 dated December 20, 2001 that the Governing Board shall authorize the executives of the Exchange to sign cheques up to such amount as decided by the Governing Board and above that amount, the Governing Board shall authorize office bearers of the exchange, including the executive director, to sign cheques. I have also noted the instructions issued by SEBI to the effect that none of the elected directors be authorized to issue cheques on behalf of the Exchange. However, the Governing Board has, instead of granting this right to a person of authority, conferred this power on 3 staff members of the Exchange, who were not even in the permanent employment of the Exchange but were employed only on contractual terms and on assignment basis, which is akin to casual employment. It is apparent that any casual or temporary employee would not have any accountability or responsibility for their acts of omission or commission, if any. These employees, without the necessary authorization, were also being asked to look after various works pertaining to operations and administration, which included market surveillance, accounts, EDP, legal, listing, underwriting and investor grievances, in the absence of any permanent employees in the exchange. I have noted that without the necessary discretion to issue any cheques, these temporary employees were issuing cheques on a regular basis and had even authorized the transfer of huge funds of the Exchange to a private mutual fund, without the express approval of the Board, based solely on the instructions of a single director. Even the annual returns of the Exchange to befiled with the ROC/DCA were signed only by one of these contractual employees and not by any directors, while the notice of EGM had been issued by the Chief Manager (a contactual employee).

23. I find that the elected directors have carefully and deliberately kept themselves outside the purview of any accountability/ responsibility for the Exchange, on records. Going by the various instances of questionable acts and decisions of the Governing Board, which do not meet the requirements of law and ethics as detailed above, it is clear that the Board had acted as an authority unto itself, throwing to winds, the norms and ethics to be followed in running an exchange, while still keeping itself outside the purview of any financial accountability and responsibility. I have noted that little has been done to rectify these shortcomings. An exchange with such vulnerabilities can pose a systemic threat to the entire securities market.

24. It also appears that MGSE is not interested in reviving trading on the exchange, which, as per SEBI's advice in June 2002, can commence only after upon establishment of SGF by the exchange. However, MGSE is yet to initiate any concrete and realistic action towards the realization of the said condition. If MGSE was serious about reviving trading on the exchange, it would have prepared itself by setting a up a SGF, modified the software to meet the current requirement of the latest trading and settlement cycle system, established connectivity with the depository etc., I have also noted that the elected diretors of the Governing Board continue to concentrate only on their trading in ISS, as against developing MGSE or taking steps to revive the trading and to bring back the inactive members to the exchange. Further, MGSE has also exhibited a lack of seriousness in appointment of an Executive Director, who could possibly provide direction to the exchange Further, there appear to be reasons to doubt the integrity of some of the elected directors, in view of the decisions undertaken by them.

25. From the material on record, it is clear that the affairs of the Governing Board are not being managed and conducted in a free, fair, transparent and just manner but are being run by a couple of elected directors, who have misused and abused their position with the sole motive of deriving pecuniary and unjust gains at all times from the Exchange. The purpose of establishment of stock exchange recognized under SR(R)A is to be in the interest of the trade and also in public interest. However, in this case, this objective seems to have been undermined, as is evident from the findings of the current inspection.

26. Apart from the irregularities mentioned earlier, I have noted that the total number of members in the "MGSE" has been reduced from the provious 80 to 69, as on the date of inspection, with not even one of them being active on MGSE. Out of this 69, 12 are trading through ISS of ISE, as on date. This state of affairs is indicative of the fact that the existing members are not interested in reviving the trading in MGSE. Moreover, as mentioned above, the Governing Board has not taken any effective steps for the revival of the exchange. I have also noted that MGSE has not recorded any trunover during the last four years (from 2000-01 till date) and the current trading and settlement system is available only "on paper" in the exchange. Further, without setting up of SGF as per the SEBI circular no SMD/POLICY/Cir 13/1997 dated June 9, 1997, the exchange cannot begin trading on its floor. Even though Exchange had submitted that there was a Broker Protection Fund created for similar purpose, it is pertinent to note that no proposal for such a fund was sent to SEBI for approval, which is clearly provided in the aforementioned circular. Therefore, the submissions of MGSE that they had formed a fund for similar purpose, are incorrect.

27. The earlier mentioned violations carry significance even though 'MGSE' has not recorded any trading for the past few years, as certain issues like maintenance of BMC, submission of audit reports, collection of contributions from the members towards IPF etc are requirements which have to be complied with, by the members, at all times during their period of holding membership in an exchange, irrespective of whether they trade or not. Admittedly, the operational management is weak, if not virtually absent. In addition to these shortcomings, there are other factors such as the presence of 44 companies listed on the MGSE as on date, out of which 26 are listed in the "MGSE" as regional companies. I find that almost all the companies are in compulsory demat mode for trading, whereas "MGSE" does not even have depository connectivity as on date. I also find that almost all these scrips are listed in either NSE or BSE where they are traded even as on date. I have also taken not of the fact that during the current inspection, about 7 companies had opted for voluntary de-listing from the Exchange.

28. Thus, it is evident that there is a huge gap between the resources currently available and the requirements, in terms of manpower, material etc, for MGSE to function as a stock exchange, in as much as the "MGSE", as it stands today, is without the requisite software/hardware to meet the requirement of the latest trading and settlement cycle system, any Settlement Guarantee Fund, surveillance and monitoring systems, Depository connectivity, a competent and full time Executive Director for steering the Exchange in the right direction etc. Mere existence of a stock exchange, without possessing such essential and basic requirements to function as one, would not have any meaning or serve any purpose towards protection of the interest of the investors and the development of the capital market as a whole. It also defeats the purpose of granting recognition to an Exchange under Section 4 of SC(R)A, which is to be in the interest of the trade and also public interest. I also find that the Exchange does not serve any economic purpose for existence as there is nil trading, no fresh listing and above all there are companies seeking voluntary delisting.

29. Thus, apart from the serious irregularities noted in the running of the MGSE, there are lapses in its basic functions and instances of non initiation of effective steps for the general functioning and administration of the Exchange in terms of the provisions of SEBI directives, Circulars, SC(R)A and the SC(R)R. There have also been non compliances by MGSE of the various circulars/ directives/instructions issued by SEBI time and again, which displays an apparent disregard for statutory compliance requirements. I believe that it is imperative that an exchange should not only comply with the directives issued by SEBI and the provisions of law, but also ensure the smooth functioning of the exchange in accordance with law, business ethics, corporate governance etc and in tune with the developments of securities market. However, in the case of MGSE, the deficiencies elaborated above are indicators of a stock exchange functioning in a manner against the interest of the public at large.

30. Considering the current scenario of the capital market, where only those institutions, which are capable of adapting to the rapidly changing market structure, alone can survive, MGSE with the aforesaid inadequacies even in the basic requirements to exist as a stock exchange, would only find itself redundant, especially in view of the absence of any realistic efforts on the part of the Governing Board for the revival of the exchange. If MGSE is allowed to function in the present manner without any immediate remedial action, it would not only lose its relevance as a public institution but also erode the confidence of the investors, which would in turn compromise the orderly development of the securities market.

31. When the activities of an exchange are carried out contrary to the interest of the investing public and in a manner which is adverse to the interest of the investors, members and the public; the same is bound to injure and damage their interests. Moreover, the failure of the Governing Board to ensure proper governance and implementation of the provisions of the SC(R)A, Bye-

Laws of the Exchange and the SEBI directives, circulars etc could erode the confidence of the investors. The functioning of the 'MGSE' has created uncertainty and insecurity amongst the investors.

32. SEBI is mandated to ensure that there are adequate systems, procedures and effective management in an Exchange, which shall protect the interest of investors and develop the securities market. On a cumulative analysis of the facts abovementioned, I am of the opinion that allowing MGSE to continue in its present from may not be in the interest of trade or public interest. Therefore, it is essential that immediate measures are adopted to ensure that the interests of the investors are not further jeopardized. I am of the opinion that the Governing Board is unable to either perform effectively or provide guidance and direction to MGSE and hence, any further renewal of recognition of MGSE does not seem reasonable and justified, as it would only serve the commercial needs of few broker members.

33. In view of the above facts and circumstances, and in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992, read with Section 4(4) of the Securities contracts (Regulation) Act, 1956, read with the Government of India Notification number F.No. 1/57/SE/93 dated September 13, 1994, I hereby refuse to grant renewal of recognition to MGSE. This order shall come into force after 3 weeks from the date of the order.

34. In view of this Order, MGSE shall cease to be a recognized stock exchange and therefore, it is imperative to pass necessary directions in the interest of investors/Shareholders of the listed companies in MGSE and in the overall interest of the Securities market I, therefore, in exercise of powers conferred upon me under Section 19 read with section 11(1) of SEBI Act pass the following directions:

   1) The money available in the Investor Protection Fund and Investor Services Cell of MGSE shall be utilized only for the purpose for which these funds have been created, as per the Articles of MGSE. Any pending claims of any investors should not be appropriated for any other purpose or for payment to the members/sharedholders of MGSE.
   2) MGSE shall set aside sufficient funds in order to provide for settlement of any claims, pertaining to pending arbitration cases, pending non-implemented arbitraction award, if any, liabilities/claims of contingent nature, if any, and unresolved investors complaints/grievances lying with the exchange, on the date of this order.
   3) The companies which are exclusively listed in the MGSE, may consider seeking listing at other stock exchanges or provide for exit option to the shareholders as per SEBI Delisting Guidelines.
   4) Consequent upon de-recognition of MGSE, the members/ shareholders of MGSE shall cease to be members of a recognized stock exchange and therefore liable to be de-registered as stock brokers, and hence, their certificate of registration granted by SEBI shall stand automatically cancelled. However, the said members/shareholders of MGSE shall be liable to pay SEBI registration fees as per Schedule III of the said regulations, till the date of this Order.

[F.No.SEBI/LE/19048/2004]

**A. K. BATRA,** Whole Time Member

ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

**ಕೆ. ನೀಲಕಂಠಾಚಾರ್**

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ, ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ),

ಪಿ.ಆರ್. 225 ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

**ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 234 ಕೇನಿಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 8ನೇ ಡಿಸೆಂಬರ್ 2004**

2004ನೇ ಸಾಲಿನ ಅಕ್ಟೋಬರ್ 8 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(i)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R.661(E) [Notification F.No.52/21/CAB-2000] ದಿನಾಂಕ: 8.10.2004 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

**MINISTRY OF COMPANY AFFAIRS**
**NOTIFICATION**
**New Delhi, the 8th October, 2004**

**G.S.R.661(E):-** In exercise of the powers conferred by Sub-section (1) of Section 642, read with clause (d) of Sub-section (1) of Section 209 of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following rules, further to amend the Cost Accounting Records (Milk Food) Rules, 1986 namely:

(1) These rules may be called the Cost Accounting Records (Milk Food) Amendment Rules, 2004.
(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Cost Accounting Records (Milk Food) Rules, 1986, in rule 2,-

(i) for sub-rule (1), the following shall be substituted, namely:

**"Application:-** (1) These rules shall apply to every company engaged in the production, processing or manufacture of Infant Milk Food or Milk Food as malted milk food, energy food or food drink under any brand name excepting those companies falling under the category of "Small Scale Industrial Units".

(ii) for sub-rule (3), the following shall be substituted, namely:

"(3) For the purposes of these rules.

(a) "Infant Milk Food" includes all types of milk food intended for the routine, complementary or supplementary food of infants and children up to the age of five years and other types of modified milk foods for infants which are incanded for the feeding of infants and children during the treatment of gastro-intestinal disorders;

(b) "Milk Food" means any food produced by mixing whole milk, partly skimmed milk or milk powder with ground barely malt or any other malted cereal grain, wheat flour or any other cereal flour or malt extract, with or without addition of flavouring agents and spices, edible common salt, sodium or potassium bicarbonate minerals and vitamins, cocoa powder, sugar or sweetening agents or other edible materials."

[F.No. 52/21/CAB-2001]

**A. K. KAPOOR,** Adviser (Cost)

**Note:-** The principal Rules were published in the Gazette of India, Extraordinary, Part II, Section 3 (i) dated the 11th October, 1986 vide Notification No. G.S.R. 866 dated the 25th September 1986.

ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

**ಕೆ. ನೀಲಕಂಠಾಚಾರ್**

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ, ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ),

ಪಿ.ಆರ್. 226 ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

**ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 235 ಕೇನಿಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 8ನೇ ಡಿಸೆಂಬರ್ 2004**

2004ನೇ ಸಾಲಿನ ಆಗಸ್ಟ್ 25 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(i)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R.540(E) [Notification F.No.28012/5/2001/CAB] ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

**MINISTRY OF COAL AND MINES**
**(Department of Coal)**
**NOTIFICATION**
**New Delhi, the 25th August, 2004**

**G.S.R.540(E):-** In exercise of the powers conferred by Sub-section (1) and (2) of Section 18 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby makes the following Rules, namely:

**1. Short title and commencement:**

(i) These rules may be called the Colliery Control Rules, 2004.

(ii) These rules shall come into force from date of their publication in the Official Gazette.

**2. Definitions:-** In these rules, unless the context otherwise requires,-

(i) "Act" means the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957);

(ii) 'coal' includes anthracite, bituminous coal, lignite, peat any other form of carbonaceous matter sold or marketed as coal and also coke;

(iii) 'Coal Controller' means the person appointed as such by the Central Government under the provisions of the Coal Controller's Organisation (Group 'A' Posts) Recruitment Rules, 1986;

(iv) 'Colliery' means any mine or open working where winning or extraction of coal is the principal object of the mining, quarrying or any other operation carried on therein and includes a plant for the production of coke or for the washing of coal;

(v) "disposal' includes agreeing or offering to dispose of, and the disposal of ownership or any proprietary interest, the right of possession and possession whether or not accompanied by any disposal of ownership or any proprietary interest or of the right to possession.

(vi) 'agent', 'manager' and 'owner' when used in relation to a colliery shall have the meanings respectively assigned to them in the Mines Act. 1952;

(vii) 'Size' when used in relation to coal shall have the same specification as given, from time to time, by the Bureau of Indian Standards in their specification number IS 437-1979

**3. Categorisation of Coal:-** The Central Government may, by notification in the Official Gazette, prescribe the classes, grades and sizes into which coal may be categorised and the specifications for each such class, grade or size of coal.

**4. Procedure for categorisation of coal:-** (1) On the basis of the categorisation notified by the Central Government under rule 3, the Coal Controller shall lay down the procedure and method of sampling and analysis of coal for the purpose of declaration and maintenace of grades of coal mined in a colliery.

(2) The owner, agent or manager of colliery shall declare the classes, grades or sizes of the coal of any seam or section of a seam in a colliery in accordance with the procedure specified in sub-rule (1).

(3) The owner, agent or manager of the colliery shall allow the inspection of the colliery undertaken by the Coal Controller or any officer authorised by him in this regard so as to ensure the correctness of the class, grade or size declared. During inspection, if the Coal Controller or the officer authorised by him decides to draw sample, the owner, agent or manager of the colliery shall provide all reasonable facilities and assistance for drawing such sample;

(4) If after inspection or from the sample drawn, the Coal Controller is satisfied that the grade as declared by the owner, agent or the manager of the colliery does not conform to the grade notified under rule clause (3) the owner, agent or manager of the colliery shall be bound to revise the grade as per the directions issued by the Coal Controller.

(5) If any dispute arises between a consumer and a owner of a colliery regarding the declaration of grades of coal, the same may be referred to the Coal Controller whose decision shall be binding on the owner of the colliery. A memorandum of reference to the Coal Controller regarding such dispute shall be accompanied by a fee of rupees two thousand and five hundred and in such manner, as may be specified by the Coal Controller, from time to time.

**5. Submission of returns and information to Coal Controller:-** Every owner of a colliery and every person engaged in the business of production, supply and distribution of, or trade and commerce in coal, on being directed to do so by the Coal Controller shall submit such returns and other information, within such time, as may be specified in the direction.

**6. Directions to regulate the disposal of coal stocks:-** The Central Government may, from time to time, issue such directions as it may deem fit to any owner of a colliery regulating the disposal of stocks of coal or of the expected output of coal in the colliery during any period.

**7. Power of the Coal Controller for quality surveillance:-** The Coal Controller or any other officer authorised by him in writing shall be competent to-

(a) cause the owner, agent or manager of a colliery or any person engaged in or incharge of the loading of coal in wagons, trolleys or trucks in a colliery, to adjust the loading according to the procedure laid down by the Coal Controller regarding grades and size of coal and to remove impurities like shales and stones from the wagons, trolleys or trucks loaded with coal;

(b) detain the wagons, trolleys or trucks at the colliery or weighbridge for adjustment of loading after inspection; and

(c) return the wagons, trolley or trucks to the colliery from weighbridge for unloading and reloading with the specified quantity and quality of coal.

**8. Power to prohibit or limit the mining or production of coal:-** The Central Government may issue such directions as it may deem fit to any colliery owner prohibiting or limiting the mining or production of any grade of coal and the colliery owner shall comply with such directions.

**9. Requirement of prior permission to open a coal mine, seam or section of a seam:-** (1) No owner of a colliery shall open a coal mine, seam or a section of a seam without the prior permission in writing of the Central Government.

(2) No owner of a colliery shall also commence mining operations in a colliery or seam or a section of a seam, in which the mining operation has been discontinued for a period exceeding one hundred and eighty days, without the prior permission in writing of the Central Government.

**10. Notice of suspension or closure:-** If the mining operations in a coal mine or seam or a section of a seam is suspended or closed temporarily or permanently, as the case may be, for any reason whatsoever, then a notice of such suspension or closure shall be given by the owner, agent or manager of the colliery within a period of thirty days from the date of such suspension or closure to the Coal Controller.

**11. Power to restrict sub-division of a coal mine:-** No owner of a colliery or a group of collieries which has been permitted under ruel 9 to work as a single mining unit or which has been working as a single unit at the time of commencement of these rules shall be allowed to sub-divide his mining unit or to work as a separate unit without the prior permission of the Central Government.

**12. Power to inspect collieries:-** The Coal Controller or any other Officer authorised by him in writing may with a view to securing compliance of these rules,-

(i) require any owner or agent or manager of a colliery to give any information in his possession relating to the production of coal in the coal mine or seam or section of a seam showing full boundaries of the leasehold area and plan of abandoned area, flooded area and area which has been or is on fire;

(ii) ask for production of any document, register and working plan,

(iii) inspect any mine plan in the possession of owner or agent or manager of a colliery, and

(iv) enter and inspect and colliery.

13. Whoever contravenes any of the provisions of these rules shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees, or with both, and in case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after the first such contravention.

14. No suit, prosecution or other legal proceedings shall lie against any person for anything which is done or intended to be done in good faith under these rules.

**15. Delegation of Powers to Coal Controller:-** The powers of the Central Government Specified under rules 6,7 and 11 may be delegated by notification in the Official Gazette to the Coal Controller.

**16. Power to exempt:-** Notwithstanding anything contained in these rules, the Central Government may, if it deems proper for avoiding any hardship or for any other just and sufficient reasons, by notification in the Official Gazette, exempt any colliery owner or any class or category of person from the provisions of any ot these rules.

[No. 28012/5/2001-CA]

**A.P.V.N.SARMA**, Jt. Secy.

ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

**ಕೆ. ನೀಲಕಂಠಾಚಾರ್**

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ, ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ),

ಪಿ.ಆರ್. 227 ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

**ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 236 ಕೇನಿಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 8ನೇ ಡಿಸೆಂಬರ್ 2004**

2004ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 27 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(i)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R.643(E) [Notification F.No.206/6/2002-Cx.6(Pt.2)] ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

**MINISTRY OF FINANCE**
**(Department of Revenue)**
**NOTIFICATION**
**New Delhi, the 27th September, 2004**
**No. 25/2004-CENTRALEXCISE (N.T)**

**G.S.R.643(E):-** In exercise of the powers conferred by rule 12 of the Central Excise Rules, 2002 and sub-rule (7) of rule 9 of CENVAT Credit Rules. 2004. and in supersession of the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 14/2004-Central Excise (N.T). dated the 4th August, 2004 published vide G.S.R. 495(E), dated the 4th August. 2004, the Central Board of Excise and Customs hereby specifies the following forms for the purposes of the said rules, namely:-

(a) for monthly return for production ad removal of goods and other relevant particulars and CENVAT credit, the following form shall be used namely:

**Form E.R.-1**

**Original/Duplicate**

**[See rule 12 of the Central Excise Rules. 2002 and rule 9(7) of CENVAT Credit Rules. 2004]**

| | M | M | | Y | Y | Y | Y |
|---|---|---|---|---|---|---|---|
| Return of excisable goods and availment of CENVAT credit for the month of | | | | | | | |

| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1. Registration Number | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2. Name of the assessee | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

3. Details of the manufacture, clearance and duty payable:

| CETSH No. | Unit of Quantity | Quantity Manufactured | Quantity cleared | Assessable value (Rs.) |
|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) |

| Duty | Notification availed | Serial No in Notification | Rate of duty | Duty payable (Rs.) | Provisional assessment number (if any) |
|---|---|---|---|---|---|
| (6) | (7) | (8) | (9) | (10) | (11) |
| CENVAT<br>Other Duties | | | | | |

4. Details of duty paid on excisable goods:

| Duty code | Account current | Credit account | Total duty paid |
|---|---|---|---|
| | (Rs). | (Rs). | (Rs) |
| (1) | (2) | (3) | (4) |
| CENVAT<br>Other Duties | | | |

5. Details of CENVAT credit availed and utilized:

| Details of Credit | CENVAT (Rs). | AED (TTA) (Rs.) | NCCD (Rs) | ADET (Rs) | Education Cess on excisable goods (Rs.) | Service Tax (Rs) | Education Cess on taxable services (Rs.) |
|---|---|---|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
| Opening balance | | | | | | | |
| Credit availed on inputs | | | | | | | |
| Credit availed on capital goods | | | | | | | |
| Credit availed on input services | | | | | | | |
| Total credit availed | | | | | | | |
| Credit utilized for payment of duty on goods | | | | | | | |
| Credit utilized when inputs or capital goods are removed as such | | | | | | | |
| Credit utilized for payment of duty on services | | | | | | | |
| Closing balance | | | | | | | |

6. Details of other payments made:

| Payments | Amount Paid (Rs.) | Challan | | | Source document No. & date |
|---|---|---|---|---|---|
| | Account current | Credit account | No. | Date | |
| (1) | (2A) | (2B) | (3A) | (3B) | (4) |
| Arrears of duty under rule 8 | | | | | |
| Other arrears of duty | | | | | |
| Interest payment under rule 8 | | | | | |
| Other interest payments | | | | | |
| Misc. Payments | | | | | |

7. Self-assessment memorandum:

a) I hereby declare that the information given in this Return is true, correct and complete in every respect and that I am authorised to sign on behalf of the assessee.

b) During the month, total Rs............... was deposited vide TR 6 Challans (copies enclosed).

c) During the month, invoices bearing S.No.............. to S.No.............. were issued.

Palce:
Date:

Name and signature of Assessee or Authorised Signatory

**ACKNOWLEDGEMENT**

| | M | M | | Y | Y | Y | Y |
|---|---|---|---|---|---|---|---|
| Return of excisable goods and availment of CENVAT credit for the month of | | | | | | | |

| | D | D | M | M | Y | Y | Y | Y |
|---|---|---|---|---|---|---|---|---|
| Date of receipt | | | | | | | | |

Name and Signature of the Range Officer with Official Seal

**INSTRUCTIONS**

1. Indicate the 15-digit PAN based registration number and the name as appearing in the Registration Certificate.

2. In case more than one item is manufactured, additional row may be inserted in each table, wherever, necessary. For giving information about the details of production and clearance, payment of duty and CENVAT credit availed and utilised month wise, the respective tables may be replicated.

3. If a specific product attracts more than one rate of duty, then all the rates should be mentioned separately.

For example: If a product is cleared at full rate of duty to the local market and at a concessional/ nil rate or duty for earthquake relief, then the details for each category of clearance must be separately mentioned.

4. In case the goods are cleared for export under Bond, the details of clearance may be mentioned separately Under the columns (7) (8) of table at serial number 3, the words 'Export under Bond' may be mentioned.

5. If a specified product attracts different rates of duty, whith the same month, then such details should be separately mentioned.

For example: on the 10th of a month, the effective rate of duty levidable for the product is changed, then the details relating to production, clearance and payment of duty need to be mentioned separately for the period up to 9th of the month and from 10th the end of the month.

6. 6-digit CETSH Number may be indicated without any decimal point.

7. Wherever quantity codes appear, indicate indicate relevant abbreviations as given below.

| Quantities | Abbreviations |
|---|---|
| Centimeter(s) | cm |
| Cubic centimeter(s) | $cm^3$ |
| Cubic meter (s) | $m^3$ |
| Gram (s) | g |
| Kilogram | kg |
| Kilolitre | kl |
| Litre(s) | 1 |
| Metre(s) | m |
| Square metre(s) | $m^2$ |
| Millimetre (s) | mm |
| Metric tonne | mt |
| Number of pairs | pa |
| Quintal | q |
| Tonne(s) | t |
| Thousand in number | Tu |
| Number | u |

8. Where the duty is specific and is charged based on specified unit quantity, the same quantity code must be used for showing clearance figures.

9. In column (5) of Table at serial number 3, the assessable value means.

(a) Where goods attract advalorem rate of duty, the value under section 4 of Central Excise Act, 1944 (1 of 1944);

(b) Where goods are covered under section 4A of the Act, the assessable value as worked out under MRP after allowing deductions as provided under section 4A of the Act;

(c) in case of goods for which the tariff value is fixed, such tariff value;

(d) in case of specific rated goods, aggregated invoice value of the goods excluding all taxes;

(e) in case of combination of advalorem and specific duties, the transaction value under section 4 of the Act;

(f) in case of exports under Bond, the ARE-1/ARE-2/ invoice value.

The abbreviations and expressions used to denote a particular type of duty are as below:

| | |
|---|---|
| CENVAT - | Duty of Excise leviable as per First Schedule to Central Excise Tariff Act, 1985 (5 of 1986). |
| SED - | Special Excise Duty leviable as per Second Schedule to Central Excise Tariff Act, 1985 (5 of 1986). |
| AED (GSI) - | Additional Duty of Excise leviable under Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957). |
| NCCD - | National Calamity Contingent Duty leviable under Section 136 of the Finance Act, 2001 (as amended). |
| AED (TTA)- | Additional Duty of Excise leviable under Additional Duties of Excise (Textile and Textile articles) Act, 1978 (40 of 1978). |

SAED- Special Additional Excise Duty leviable under section 147 of the Finance Act, 2002.

ADE - Additional duty of Excise on Motor Spirit and High Speed Diesel leviable under Section 111 of the Finance (No. 2) Act, 1998 and section 133 of the Finance Act, 1999 respectively.

ADET - Additional duty of Excise on Tea and Tea Waste leviable under section1 57 of the Finance Act, 2003.

Education Cess on excisable goods-Education Cess on excisable goods leviable under section 91 read with section 93 of Finance (No. 2) Act, 2004 (23 of 2004).

Service Tax- Service tax leviable under section 66 of the Finance Act, 1994 (32 of 1994).

Cess- Cess leviable under different Cess enactments.

10. In Tables at serial numbers 3 and 4 the Other duties' paid/payable, as applicable, may be mentioned as per the following sequence.

SED -
AED (GSI)
NCCD
AED (TTA)
SAED
ADE
ADET
EDUCATION CESS ON EXCISABLE GOODS
CESS

11. In column (9) in Table at serial number 3, indicate the effective rates of duty Columns which are not applicable, may be left blank.

12. Goods cleared under compounded levy scheme. indicate the aggregate duty payable in column (10) of Table at serial number 3 as per the compounded levy scheme. The columns not applicable may be kept blank.

13. In case the goods are assessed provisionally, the details may be given separately in Table at serial number 3. In column (11) of Table at serial number 3, specily the Unique Identification number mentioned in the order for Provisional Assessment.

14. In column (4) of Table at serial number 6, specify the Order-in-Original number and date relating to the payment of arrears of duty and of interest, the period for which the said interest has been paid For other miscellaneous payments, mention the source document number and date.

(B) for quarterly return for clearance of goods and CENVAT credit, the following form shall be used, namely

**Form E.R.-3**

**Original/Duplicate**

[See Rule 12 of the Central Excise Rules. 2002 and rule 9 (7) of CENVAT Credit Rules, 2004]

[To be submitted by the assesses falling under proviso to rule 12 of the Central Excise Rules, 2002]

| | M | M | | Y | Y | Y | Y |
|---|---|---|---|---|---|---|---|
| Return of excisable goods and availment of CENVAT credit for the quarter ending | | | | | | | |

| 1. Registration Number | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|

| 2. Name of the assessee | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|

3. Details of the manufacture, clearance and duty payable during the first/second/third month of the quarter.

| CETSH No. | Unit of Quantity | Quantity Manufactured | Quantity cleared | Assessable value (Rs.) |
|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) |

| Duty | Notification availed | Serial No in Notification | Rate of duty | Duty payable (Rs.) | Provisional assessment number (if any) |
|---|---|---|---|---|---|
| (6) | (7) | (8) | (9) | (10) | (11) |
| CENVAT Other Duties | | | | | |

4. Details of duty paid on excisable goods during the first/second/ third month of the quarter.

| Duty Code | Account current (Rs.) | Credit account (Rs.) | Total duty paid |
|---|---|---|---|
| (1) | (2) | (3) | (4) |

| | | | |
|---|---|---|---|
| CENVAT | | | |
| Other Duties | | | |

5. Details of CENVAT credit availed and utilized during the first/second/third month of the quarter;

| Details of Credit | CENVAT (Rs). | AED (TTA) (Rs.) | NCCD (Rs) | ADET (Rs) | Education Cess on excisable goods (Rs.) | Service Tax (Rs) | Education Cess on taxable services (Rs.) |
|---|---|---|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
| Opening balance | | | | | | | |
| Credit availed on inputs | | | | | | | |
| Credit availed on capital goods | | | | | | | |
| Credit availed on input services | | | | | | | |
| Total credit availed | | | | | | | |
| Credit utilized for payment of duty on goods | | | | | | | |
| Credit utilized when inputs or capital goods are removed as such | | | | | | | |
| Credit utilized for payment of duty on services | | | | | | | |
| Closing balance | | | | | | | |

6. Details of other payments made:

| Payments | Amount Paid (Rs.) | Challan | | | Source document No. & date |
|---|---|---|---|---|---|
| | Account current | Credit account | No. | Date | |
| (1) | (2A) | (2B) | (3A) | (3B) | (4) |
| Arrears of duty under rule 8 | | | | | |
| Other arrears of duty | | | | | |
| Interest payment under rule 8 | | | | | |
| Other interest payments | | | | | |
| Misc. Payments | | | | | |

7. Self-assessment memorandum:

a) I hereby declare that the information given in this Return is true, correct and complete in every respect and that I am authorised to sign on behalf of the assessee.

b) During the quarter, total Rs............... was deposited vide TR 6 Challans (copies enclosed).

c) During the quarter, invoices bearing S.No............. to S.No............... were issued.

Palce: (Name in capital letters and signature of

Date: Assessee or Authorised Signatory)

**ACKNOWLEDGEMENT**

| | M | M | | Y | Y | Y | Y |
|---|---|---|---|---|---|---|---|
| Return of excisable goods and availment of CENVAT credit for the quarter ending | | | | | | | |

| | D | D | M | M | | Y | Y | Y | Y |
|---|---|---|---|---|---|---|---|---|---|
| Date of receipt | | | | | | | | | |

Name and Signature of the Range Officer with Official Seal

**INSTRUCTIONS**

1. Indicate the 15-digit PAN based registration number and the name as appearing in the Registration Certificate.

2. In case more than one item is manufactured, additional row may be inserted in each table, wherever, necessary. For giving information about the deatils of production and clearance, payment of duty and CENVAT credit availed and utilised month wise, the respective tables may be replicated.

3. If a specific product attracts more than one rate of duty, then all the rates should be mentioned separately.

**For example:** If a product is cleared at full rate of duty to the local market and at a concessional/ nil rate or duty for earthquake relief, then the details for each category of clearance must be separately mentioned.

4. In case the goods are cleared for export under Bond, the details of clearance may be mentioned separately Under the columns (7) and (8) of table at serial number 3, the words 'Export under Bond' may be mentioned.

5. If a specified product attracts different rates of duty, within the same month, then such details should be separately mentioned.

**For example:** on the 10th of a month, the effective rate of duty levidable for the product is changed, then the details relating to production, clearance and payment of duty need to be mentioned separately for the period up to 9th of the month and from 10th the end of the month.

6. 6-digit CETSH Number may be indicated without any decimal point.

7. Wherever quantity codes appear, indicate indicate relevant abbreviations as given below.

| Quantities | Abbreviations |
|---|---|
| Centimetre | cm |
| Cubic Centimetre | $cm^3$ |
| Cubic Centimetre | $m^3$ |
| Gram Centimetre | g |
| Kilogram | kg |
| Kilolitre | kl |
| Litres (s) | l |
| metre (s) | m |
| Square | $m^2$ |
| Millimetre (s) | mm |
| Metric tonne | mt |
| Number of pairs | pa |
| Quintal | q |
| Tonne(s) | t |
| Thousand in number | Tu |
| Number | u |

8. Where the duty is specific and is charged based on specified unit quantity, the same quantity code must be used for showing clearance figures.

9. In column (5) of Table at serial number 3, the assessable value means.

(a) Where goods attract advalorem rate of duty, the value under section 4 of Central Excise Act, 1944 (1 of 1944);

(b) Where goods are covered under section 4A of the Act, the assessable value as worked out under MRP after allowing deductions as provided under section 4A of the Act;

(c) in case of goods for which the tariff value is fixed, such tariff value;

(d) in case of specific rated goods, aggregated invoice value of the goods excluding all taxes;

(e) in case of combination of advalorem and specific duties, the transaction value under section 4 of the Act;

(f) in case of exports under Bond, the ARE-1/ARE-2/ invoice value.

The abbreviations and expressions used to denote a particular type of duty are as below:

CENVAT - Duty of Excise leviable as per First Schedule to Central Excise Tariff Act, 1985 (5 of 1986).

SED - Special Excise Duty leviable as per Second Schedule to Central Excise Tariff Act, 1985 (5 of 1986).

AED (GSI) - Additional Duty of Excise leviable under Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957).

NCCD - National Calamity Contingent Duty leviable under Section 136 of the Finance Act, 2001 (as amended).

AED (TTA)- Additional Duty of Excise leviable under Additional Duties of Excise (Textile and Textile articles) Act, 1978 (40 of 1978).

SAED- Special Additional Excise Duty leviable under section 147 of the Finance Act, 2002.

ADE - Additional duty of Excise on Motor Spirit and High Speed Diesel leviable under Section 111 of the Finance (No. 2) Act, 1998 and section 133 of the Finance Act, 1999 respectively.

ADET - Additional duty of Excise on Tea and Tea Waste leviable under section1 57 of the Finance Act, 2003.

Education Cess on excisable goods-Education Cess on excisable goods leviable under section 91 read with section 93 of Finance (No. 2) Act, 2004 (23 of 2004).

Service Tax- Service tax leviable under section 66 of the Finance Act, 1994 (32 of 1994).

Cess- Cess leviable under different Cess enactments.

10. In Tables at serial numbers 3 and 4 the Other duties' paid/payable, as applicable, may be mentioned as per the following sequence.

SED -
AED (GSI)
NCCD
AED (TTA)
SAED
ADE
ADET
EDUCATION
CESS ON
EXCISABLE
GOODS
CESS

11. In column (9) in Table at serial number 3, indicate the effective rates of duty Columns which are not applicable, may be left blank.

12. Goods cleared under compounded levy scheme. indicate the aggregate duty payable in column (10) of Table at serial number 3 as per the compounded levy scheme. The columns not applicable may be kept blank.

13. In case the goods are assessed provisionally, the details may be given separately in Table at serial number 3. In column (11) of Table at serial number 3, specily the Unique Identification number mentioned in the order for Provisional Assessment.

14. In column (4) of Table at serial number 6, specify the Order-in-Original number and date relating to the payment of arrears of duty and of interest, the period for which the said interest has been paid For other miscellaneous payments, mention the source document number and date.

[F.No.201/6/2002-CX-6(Pt.2)]
**NEERAVKUMAR MALLICK,** Under Secy.

ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
**ಕೆ. ನೀಲಕಂಠಾಚಾರ್**
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ,
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ),
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಪಿ.ಆರ್. 228

## ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 237 ಕೇನಿಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 8ನೇ ಡಿಸೆಂಬರ್ 2004

2004ನೇ ಸಾಲಿನ ಆಗಸ್ಟ್ 10 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(i)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R.514(E) [Notification F.No.13-5/2000-BDD] ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

**MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY**
**(Department of Posts)**
**NOTIFICATION**
**New Delhi, the 10th August, 2004**

**G.S.R.514(E):-** In exercise of the powers conferred by clause (d) of sub-section 2 of section 21 read with section 74 of the Indian Post Office Act, 1898 (6 of 1898), the Central Government hereby makes the following rules further to amend the Indian Post Office Rules, 1983, namely:

1. (1) These rules may be called the Indian Post Office (Amendment) Rules, 2004.
(2) they shall come into force on the date of their publication in the Official Gazette.

2. In the Indian Post Office Rules, 1983, after rule 43, the following rule shall be inserted, namely:

**'Logistics Post'**

43-A (1) The Director General may authorize the Heads of Postal Circles to specify, from time to time, the designated office and designated place where the articles called as "Logistics Post Articles" may be booked at or addressed to, subject to the following conditons, namely:

(a) there shall be no maximum weight limit of Logistics Post Articles;
(b) the minimum charges on Logistics Post Articles shall be the same as charged for a consignment of such Logistics Post Articles of weight of 50 Kgs;
(c) a special receipt shall be given by the designated office to the person who presents such Logistics Post Articles for booking at the designated office;
(d) the weight-volume equivalence to determine the weight for the purpose of rate to be charged on the Logistics Post Articles shall be such as the Director General may, from time to time, specify in this behalf;

(e) Logistics Post Articles shall be presented for booking in such a manner that they are safe for transmission, and secure against pilferage, tampering, manipulation, damage or leakage;

(f) the charges on Logistics Post Articles shall be determined as specified by the Director General after taking into consideration, inter alia, service charge, loading, unloading, brokerage, transportation etc., and charges for any other service to be provided;

(g) the charges on Logistics Post Articles shall be fully prepaid.

2) No Logistics Post Article shall be accepted for booking if the consignment of such Article contains any contents which are prohibited under the Act/ or these rules.

3) If any Logistics Post Article, in the course of transmission by post is found to contain anything the transmission of which is in contravention of the provisions of the Act or these rules, the same shall be detained at any point of transmission at which it is detected, or at any post office nearest to the place at which it is detected, and shall be further disposed of as the Director General may, from time to time, by order, specify.

4) Nothing contained in the sub rules (2) and (3) shall affect the liability of the sender in respect of any of the acts committed by him, which is punishable under section 61 of the Act.

5) Logistics Post Articles shall be booked, transported and delivered in such manner, and on such conditions, as the Director General may, from time to time, by order, specify."

[F.No.13-5/2000-BDD]

**M.S. BALI,** General Manager Business Development Directorate

**Note:-** The Principal rules as amended upto 1-1-1975 have been published in the Posts and Telegraphs Manual Volume-I, Legislative Enactments, Part-I Fifth Edition and subsequently amended by.

1. G.S.R. 2888, dated 19-12-75
2. G.S.R. 596 (E), dated 30-12-75
3. G.S.R. 741(E), dated 31-12-75
4. G.S.R. 472, dated 24-1-76
5. G.S.R. 93(E), dated 25-2-76
6. G.S.R. 811(E), dated 31-5-76
7. G.S.R. 940(E), dated 21-6-76
8. G.S.R. 135(E), dated 7-1-78
9. G.S.R. 304(E), dated 29-5-78
10. G.S.R. 316(E), dated 18-5-79
11. G.S.R. 4118(E), dated 29-12-79
12. G.S.R. 1256(E), dated 13-5-80
13. G.S.R. 490(E), dated 26-6-80
14. G.S.R. 491(E), dated 26-6-80
15. G.S.R. 380(E), dated 5-6-81
16. G.S.R. 409(E), dated 26-9-81
17. G.S.R. 59(E), dated 11-2-82
18. G.S.R. 417(E), dated 22-5-82
19. G.S.R. 411(E), dated 13-5-82
20. G.S.R. 520(E), dated 10-8-82
21. G.S.R. 33(E), dated 20-1-83
22. G.S.R. 49(E), dated 2-2-83
23. G.S.R. 92(E), dated 21-2-83
24. G.S.R. 444(E), dated 23-5-83
25. G.S.R. 37(E), dated 17-1-84
26. G.S.R. 1622 (E), dated 19-5-84
27. G.S.R. 637(E), dated 16-4-86
28. G.S.R. 329, dated 3-5-86
29. G.S.R. 461, dated 14-6-86
30. G.S.R. 2420, dated 28-6-86
31. G.S.R. 436(E), dated 24-7-86
32. G.S.R. 2460(E), dated 24-7-86
33. G.S.R. 3677(E), dated 25-10-86
34. G.S.R. 1333(E), dated 29-12-86
35. G.S.R. 85(E), dated 6-2-87
36. G.S.R. 548(E), dated 28-2-87
37. G.S.R. 379(E), dated 10-4-87
38. G.S.R. 265(E), dated 11-4-87
39. G.S.R. 480(E), dated 29-4-87
40. G.S.R. 531(E), dated 27-5-87
41. G.S.R. 438, dated 6-6-87
42. G.S.R. 632(E), dated 27-8-87
43. G.S.R. 688, dated 30-8-87
44. G.S.R. 807 (E), dated 2-9-87
45. G.S.R. 829(E), dated 15-9-87
46. G.S.R. 823(E), dated 15-9-87
47. G.S.R. 976(E), dated 9-11-87
48. G.S.R. 1(E), dated 1-1-88
49. G.S.R. 2 (E), dated 1-1-88
50. G.S.R. 55(E), dated 15-1-88
51. G.S.R. 212(E), dated 26-2-88
52. G.S.R. 344(E), dated 4-3-88
53. G.S.R. 388(E), dated 14-4-83
54. G.S.R. 462(E), dated 2-5-88
55. G.S.R. 639(E), dated 23-5-88
56. G.S.R. 683, dated 7-6-88
57. G.S.R. 624(E), dated 29-6-88
58. G.S.R. 633(E), dated 1-7-88
59. G.S.R. 684(E), dated 8-7-88
60. G.S.R. 866(E), dated 26-9-88
61. G.S.R. 1022(E), dated 31-12-88
62. G.S.R. 14(E), dated 4-1-89
63. G.S.R. 68(E), dated 10-1-89
64. G.S.R. 180(E), dated 24-2-89
65. G.S.R. 223(E), dated 28-2-89
66. G.S.R. 180(E), dated 1-3-89
67. G.S.R. 314(E), dated 1-5-89
68. G.S.R. 435(E), dated 9-6-89
69. G.S.R. 478 (E), dated 24-6-89
70. G.S.R. 639(E), dated 26-8-89
71. G.S.R. 804(E), dated 12-10-89
72. G.S.R. 821(E), dated 16-10-89
73. G.S.R. 898, dated 2-12-89
74. G.S.R. 965, dated 12-12-89
75. G.S.R. 1077(E), dated 29-12-89
76. G.S.R. 1078(E), dated 29-12-89
77. G.S.R. 967(E), dated 30-12-89
78. G.S.R. 198(E), dated 5-2-90
79. G.S.R. 100(E), dated 1-3-90
80. G.S.R. 197(E), dated 5-3-90
81. G.S.R. 312(E), dated 5-4-90
82. G.S.R. 358(E), dated 30-4-90
83. G.S.R. 379(E), dated 11-5-90
84. G.S.R. 544(E), dated 5-6-90
85. G.S.R. 545(E), dated 5-6-90
86. G.S.R. 783(E), dated 12-6-90

87. G.S.R. 68(E), dated 10-8-90
88. G.S.R. 628(E), dated 18-8-90
89. G.S.R. 671(E), dated 31-8-90
90. G.S.R. 694(E), dated 11-9-90
91. G.S.R. 783(E), dated 12-10-90
92. G.S.R. 622(E), dated 20-9-91
93. G.S.R. 178, dated 6-4-92
94. G.S.R. 79, dated 14-1-93
95. G.S.R. 259(E), dated 5-3-93
96. G.S.R. 420(E), dated 17-5-93
97. G.S.R. 615(E), dated 20-9-93
98. G.S.R. 616(E), dated 16-9-93
99. G.S.R. 778(E), dated 27-12-93
100. G.S.R. 43(E), dated 21-1-94
101. G.S.R. 193(E), dated 18-2-94
102. G.S.R. 152, dated 26-3-94
103. G.S.R. 434(E), dated 2-6-94
104. G.S.R. 502(E), dated 8-6-94
105. G.S.R. 793(E), dated 7-11-94
106. G.S.R. 836(E), dated 5-12-94
107. G.S.R. 860(E), dated 21-12-94
108. G.S.R. 873(E), dated 21-12-94
109. G.S.R. 931(E), dated 26-12-94
110. G.S.R. 121(E), dated 24-2-95
111. G.S.R. 342(E), dated 18-4-95
112. G.S.R. 484(E), dated 14-6-95
113. G.S.R. 736(E), dated 13-11-95
114. G.S.R. 737(E), dated 13-11-95
115. G.S.R. 926(E), dated 20-11-95
116. G.S.R. 764(E), dated 29-11-95
117. G.S.R. 783(E), dated 7-12-95
118. G.S.R. 201(E), dated 7-5-96
119. G.S.R. 372(E), dated 21-8-96
120. G.S.R. 427(E), dated 18-9-96
121. G.S.R. 517(E), dated 6-11-96
122. G.S.R. 573(E), dated 18-12-96
123. G.S.R. 277(E), dated 19-5-97
124. G.S.R. 295(E), dated 30-5-97
125. G.S.R. 318(E), dated 10-6-97
126. G.S.R. 351(E), dated 26-6-97
127. G.S.R. 723(E), dated 26-12-97
128. G.S.R. 41(E), dated 21-1-98
129. G.S.R.42(E), dated 22-1-98
130. G.S.R. 406(E), dated 26-7-98
131. G.S.R. 503(E), dated 19-8-98
132. G.S.R. 40(E), dated 22-1-99
133. G.S.R. 46(E), dated 22-1-99
134. G.S.R. 77(E), dated 9-2-99
135. G.S.R. 345(E), dated 23-5-99
136. G.S.R. 357(E), dated 23-4-2000
137. G.S.R. 672(E), dated 25-8-2000
138. G.S.R. 71(E), dated 7-2-2001
139. G.S.R. 387(E), dated 24-5-2001
140. G.S.R. 7(E), dated 3-1-2002
141. G.S.R. 23(E), dated 11-1-2002
142. G.S.R. 366(E), dated 14-5-2002
143. G.S.R. 381(E), dated 24-5-2002
144. G.S.R. 612(E), dated 2-9-2002
145. G.S.R. 637(E), dated 11-9-2002
146. G.S.R. 705(E), dated 4-9-2003

ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

**ಕೆ. ನೀಲಕಂಠಾಚಾರ್**

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ,
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ),
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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**ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 238 ಕೇನಿಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 10ನೇ ಡಿಸೆಂಬರ್ 2004**

2004ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 27 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(i)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R.505(E) [Notification F.No.VII-11017/23/2002-PR] ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

**MINISTRY OF HOME AFFAIRS**
**NOTIFICATION**
**New Delhi, the 9th August, 2004**

**G.S.R.505(E):-** In exercise of the powers conferred by Section 14 of the Repatriation of Prisoners Act, 2003 (49 of 2003), the Central Government hereby makes the following rules, namely:

**1. Short title and commencement:-** (1) These rules may be called the Repatriation of Prisoners Rules, 2004.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions:-** In these rules, unless the context otherwise requires:-

(a) "Act means the Repatriation of Prisoners Act, 2003 (49 of 2003);
(b) "Application" means an application made under section 4 of the Act;
(c) "diplomatic channel" means through the missions of the respective countries;
(d) "section" means a section of the Act;
(e) all other words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in that Act.

**3. Form of application:-** An application under section 4 of the Act shall be made by a prisoner for his transfer on a plain paper and in Form 1 appended to these rules and in accordance with the procedure and instructions set out in that form.

**4. Means of forwarding the application:-** The application of the prisoner along with other informations as required under sub-section (1) of section 6, shall be forwarded by the Central Government to the Government of the contracting State either directly or through the diplomatic channel.

**5. Form of warrants:-** (2) A warrant under sub-section (1) of section 7 of the Act shall be issued in Form 2 appended to these rules and in accordance with the procedure and instructions set out in that form.

(2) A warrant under sub-section (1) of section 12 of the Act shall be issued in Form 3 appended to these rules and in accordance with the procedure and instructions set out in that form.

**Form-1**

**APPLICATION FOR TRANSFER OF SENTENCED PERSON**

**(Under rule 3)**

**(Particulars are to be furnished In respect of the sentenced person)**

To
Joint Secretary (CS),
Government of India,
Ministry of Home Affairs,
North Block,
New Delhi,

Sir,

I request that I may be transferred to serve remaining period of my sentence in a prison situated in ........................... the country of my nationality (name of the contracting State). I hereby furnish the following information for consideration of my application:

1. Name in BLOCK LETTERS and nationality :
2. Name of father/husband :
3. Full address in the contracting State :
4. Date of birth/age :
5. Offence(s) under which convicated :
6. Name of the Court which convicted :
7. Date of judgment :
8. The nature, duration and date of commencement of the sentence :
9. Name of the prison, where Endergoing sentence. :

I, .................................... (name in full along with nationality and in block letters,), son/daughter of Mr/Ms........................................ declare that the information furnished by me as above is correct, complete and true to the best of my knowledge and belief. I may be held liable for any action, if any information furnished by me is found incorrect.

Address (In case signatory is other than the prisoner):

(SIgnature of the applicant or of the person entitled to act on behalf of the prisoner in case of his Ill Health, mental condition, old age or being minor)

(Please see instructions overleaf)

**Instructions**

1. The application in original should be sent to Joint Secretary (CS), Government of India, Ministry of Home Affairs, North Block, New Delhi by ordinary/registered post.
2. A copy of the application may be delivered to the officer in-charge of the jail where the prisoners under going the sentence.
3. Following documents may be attached with the application.
   (a) A copy of the judgement passed agains the prisoner;
   (b) Document indicating that the prisoner is a citizen of the contracting state.
4. In case the application is being made by the person entitled to act on behalf of the prisoner, he/she should write his/her full name along with nationality & address below his/her signature.

**Form-2**

**(See rule 5(1))**

**Form of Warrant**

**(under sub-section (1) of section 7 of the Repatriation of Prisoners Act, 2003)**

Mr/Ms.................................. the Jail Superintendent/Jailor (or the officer's designation who is in charge of the prison where the prisoner is imprisoned) ............................ (Name of the Jail with full address) is hereby directed to deliver the custody of Mr./Ms............................ (Name and nationality of the Prisoner) son/wife/daughter of ............................. age ..................... address ............................................. (as it appears in the prison record) who was convicted of offences under section(s) ............. of .................. (Name of the legislation under which sentenced) to Mr./Ms......................... (Name and designation of the authorised person (Official) of the contracting State), ....................... at ............................ (Place of delivery of prisoner in India i.e. Embassy, Air Port etc). on.................. (Date of delivery) as requested by the Government of ....................... in terms of Agreement/Arrangement between the Government of the Republic of India and the Government of............................ on transfer of convicted offenders entered into by India with ............................. (Name of the contracting State) which came into force on ..............................

2. Mr./Ms.............................. (Name of the prisoner) as mentioned herein above, would under go the ramaining part of the Sentence in the cortracting state which he/she would have undergone in India, had he/she not been transferred out of India.
3. In case the prisoner escapes from the custody within India, the prisoner may be arrested without warrant by any person who shall without undue delay deliver such prisoner to the nearest police station and the prisoner so arrested shall be liable for committing an offence under section 224 of the Indian Penal Code and shall also be liable for such sentence of imprisonment in India which he would have to undergo if the delivery of custody of such prisoner had not been made under section 8.

Authorised Officer of the State Govt.
(Not below the rank of a Joint Secretary).

To

Sh./Smt.............................
......................................... (Designation)
Address ............................
...........................................

**Copy to:** (i) Joint Secretary (CS), Ministry of Home Affairs, Government of India.
(ii) Joint Secretary (CPV), Ministry of External Affairs, Govt. of India.
(iii) Secretary, Department of Prison
Govt. of .............................. (State in which imprisoned)
(iv) Charge-de-Affairs, Embassy .....................(Name of the contracting State)
Address (official) .....................................
(v) Mr./Ms................................ (Name and address of the Authorised person (official) of the contracting State)

**Form-3**
**(See rule 5(2))**
**Form of Warrant**
**(under sub-section (2) of section 12 of the Repatriation of Prisoners Act, 2003)**

Mr/Ms................................. Designation.................................., Address (official) .................... is hereby directed to receive the custody of Mr./Ms.............................. (Name and nationality of the prisoner) Address ...........................(as it appears in the letter of the contracting State) at...................... (Place of receiving of the prisoner outside India by the authorised official) and to hold the prisoner for bringing him to India from the place of receiving. The custody of the said prisoner shall be handed over by the receiving officer to the officer-in charge of ................................. (Name and Address of the prison) where the prisoner has to serve his/her remaining part of the sentence in India as per the existing law for the offence committed by him/her in the contracting State.

2. In case the prisoner escapes from the custody, the said prisoner may be arrested without warrant by any person who shall without undue delay deliver such prisoner to the officer in charge of the nearest police station and the prisoner so arrested shall be liable for committing an offence under section 224 of the Indian Penal Code or the applicable law depending upon the place of escape and shall also be liable to be dealt with in accordance with this warrant.

Authorised Officer of the State Govt.
(Not below the rank of a Joint Secretary).

To

Sh./Smt.............................
......................................... (Designation)
Address ............................
...........................................

**Copy to:** (i) Joint Secretary (CS), Ministry of Home Affairs, Government of India.
(ii) Joint Secretary (CPV), Ministry of External Affairs, Government of India.
(iii) Secretary, Department of Prison
Govt. of .............................. (State in which the Prisoner is to be imprisoned)
(iv) Charge-de-Affairs, Embassy .....................(Name of the contracting State)
Address (official) .....................................

[F.No. VII-11017/23/2002-PR]
**A. K. SRIVASTAVA,** Jt. Secy. (CS)

ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

**ಕೆ. ನೀಲಕಂಠಾಚಾರ್**

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ, ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ),
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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